United Nations E/C.12/NZL/4

Economic and Social Council

Distr.: General
6 October 2017

Original: English
English, French and Spanish only

Committee on Economic, Social and Cultural Rights

Fourth periodic report submitted by New Zealand under articles 16 and 17 of the Covenant, due in 2017*

[Date received: 17 August 2017]

* The present document is being issued without formal editing.

GE.17-17198(E)

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Annex **

** The annex to the present document is on file with the secretariat. It is also available on the Committee's website.

I. Introduction

1. The Government of New Zealand is pleased to present its fourth periodic report to the United Nations Committee on Economic, Social and Cultural Rights ("the Committee"), under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (the Covenant). The Report covers the period from January 2011 to May 2017.

2. The Report is prepared under the simplified reporting procedure (Res. 68/268) and responds, in sequential order, to the Committee's list of issues prepared prior to the submission of this Report (E/C.12/NZL/QPR/4). The Report should be read with reference to the core document of New Zealand (HRI/CORE/1/Add.33).

3. Information about Parliament, the courts, and Government activity is readily available at www.govt.nz. Legislation referred to in this report can be found at www.legislation.govt.nz.

II. Issues of particular relevance

Constitutional Review Process

4. An independent Constitutional Advisory Panel (the Panel) was appointed in 2010 to consider constitutional issues, including the status of the New Zealand Bill of Rights Act 1990 (NZBORA). The Panel reported to Government in December 2013.[1]

5. A common theme throughout the report is that people need more information and need to be more involved in discussions about constitutional issues. The report's key recommendation is for the Government to actively support a continuing conversation about the constitution.

New Zealand Bill of Rights Act 1990

6. The Panel found broad support for exploring changes to the NZBORA and enhancing mechanisms for ensuring compliance with the standards set in the Act.

7. Ideas the Panel suggested be explored include adding economic, social and cultural rights, improving compliance by the Executive and Parliament with the standards in the Act, and giving the Judiciary powers to assess legislation for consistency with the Act.

8. The Government has no plans to review the NZBORA at this stage. The Panel's recommendations will be a useful starting point if such a review takes place in the future.

The role of the Treaty of Waitangi

9. The Panel stressed the need to continue the conversation about the place of the Treaty of Waitangi in our constitution. It recommended a Treaty education strategy be developed that includes the current role and status of the Treaty and the Treaty settlement process so people can inform themselves about the rights and obligations under the Treaty.

10. Education about the Treaty is a formal part of the New Zealand Curriculum and the national conversation about its place in our constitutional arrangements is ongoing.

Ensuring laws are consistent with human rights treaties, the NZBORA and the Treaty of Waitangi

11. New Zealand recognises the fundamental importance of the economic, social and cultural rights guaranteed under the Covenant. There are a variety of ways of ensuring laws are consistent with international treaties, the Treaty of Waitangi and the NZBORA.

[1] The report is available at http://www.ourconstitution.org.nz/The-Report.

12. While international treaties are not directly enforceable in New Zealand unless implemented into domestic law, wherever possible national legislation is interpreted and applied consistently with the Covenant. There is a general presumption that, in the absence of clear contrary intention, legislation (i.e. statutory powers) should be interpreted consistently with New Zealand's international obligations.

Legislation development

13. As legislation is developed in New Zealand, Ministers must confirm that bills comply with certain legal principles or obligations. In particular, Ministers must draw attention to any aspects of a bill that have implications for, or may be affected by:

(a) The principles of the Treaty of Waitangi;

(b) The rights and freedoms contained in the NZBORA and the Human Rights Act 1993;

(c) The principles in the Privacy Act 1993;

(d) International obligations;

(e) Guidance contained in the Legislation Advisory Committee Guidelines.[1]

Disclosure Statements

14. A new mechanism to further ensure the compatibility of laws with international standards is to append disclosure statements to all Government Bills. Disclosure statements must indicate a bill's consistency with various standards including the NZBORA, the principles of the Treaty of Waitangi, relevant international obligations such as the Covenant, and the nature and extent of external consultation.

15. The publication of this information is intended to promote greater attention to existing expectations for the development of legislation. The Legislation Amendment Bill, currently before Parliament, will make disclosure statements a binding legal obligation for most Government Bills and most disallowable instruments.

16. Section 7 of the NZBORA provides that where any bill is introduced, the Attorney-General must bring to the attention of the House of Representatives any bill that appears to be inconsistent with any of the rights and freedoms contained in the NZBORA. To assist the Attorney-General in performing this function, the Ministry of Justice or Crown Law provides advice on every bill for consistency with the NZBORA.

17. In 2014, Parliament's Standing Orders Committee amended the Parliamentary Standing Orders. Now, reports from the Attorney General, which indicate a legislative bill's inconsistency with the NZBORA, must automatically be referred to a Parliamentary select committee for consideration. This new requirement adds another layer of Parliamentary scrutiny to NZBORA consideration as officials can now be called to appear before the committee as witnesses to discuss the details of the report. These submissions are delivered in public hearings, and may include the media.

18. The Ministry of Justice continues to work with other Government agencies to ensure fundamental human rights affirmed in international human rights treaties and in legislation are considered in policy development.

Waitangi Tribunal

19. The Waitangi Tribunal has jurisdiction to consider whether acts, regulations or other statutory instruments, policy or practice, and Crown actions or omissions are consistent with the principles of the Treaty of Waitangi. Where the Tribunal finds a claim is well founded, it can make recommendations to the Crown for action to be taken to compensate for or remove the prejudice, or prevent other persons from being similarly affected in the future.

[1] These guidelines represent "best practice" and enable officials to identify and address issues in the development of legislation.

Judicial review of statutory decisions

20. An application for judicial review may be considered for any exercise, refusal to exercise, or proposed or purported exercise by any person of a statutory power. "Statutory power" is widely defined and includes (but is not limited to) the power or right to make regulations and rules, and to exercise a statutory power of decision. Judicial review in the context of Covenant rights will be focussed primarily on the rights as expressed in the particular statute, but, where applicable, the Court will also have regard to the Convention.

Declarations of inconsistency under the Human Rights Act 1993

21. Section 92I of the Human Rights Act 1993 makes one of the remedies available in the Human Rights Tribunal a declaration that the defendant has breached the Act. If the Tribunal finds an enactment is inconsistent with the right to freedom from discrimination affirmed in section 19.(1) of the NZBORA, the only remedy the Tribunal may grant is a declaration of inconsistency. The declaration does not affect the validity of an act.

22. This declaration is public and allows for transparency when breaches of the right to be free from discrimination are identified. The Minister responsible for the enactment has 120 days to present the declaration, and the Government's response, to the House of Representatives. This enables Parliament to consider the opinion of the Tribunal and how to address the inconsistency.

23. Four declarations of inconsistency have been issued by the Tribunal against the Government under the Human Rights Act. These declarations related to discrimination on the basis of age, sex, marital status and disability and are discussed below.

Howard v. Attorney-General

24. The first declaration of inconsistency was issued in May 2008 in *Howard v. Attorney-General*. The plaintiff argued that he had suffered age discrimination when he could not get vocational rehabilitation from the Accident Compensation Corporation (ACC) because he was over 65 years. The Tribunal found that the relevant section in the ACC legislation did discriminate against the plaintiff on the grounds of age and that this discrimination was not justified. The Tribunal issued a declaration of inconsistency. On 1 October 2008 the Government addressed the declaration by removing age limits for vocational rehabilitation in the legislation.

Ministry of Health v. Atkinson

25. In January 2010 the Human Rights Review Tribunal issued a declaration in Ministry of *Health v. Atkinson* in relation to a Ministry of Health policy that affected the way in which disabled people are assessed as being in need of disability support services funded by the Ministry. It found the Ministry's policy or practice of paying external providers to supply support services to disabled persons in their family homes, and declining to pay family members willing to supply those services, was unjustifiably discriminatory under the NZBORA. That decision was the first occasion on which a declaration of inconsistency had been made in relation to Government policy under the Human Rights Act 1993. As a result the Ministry of Health introduced a new policy permitting family members to be employed to support highly disabled relatives.

Heads v. Attorney-General

26. In May 2015, the Human Rights Review Tribunal issued its third declaration of inconsistency under the Human Rights Act 1993. In *Heads v. Attorney-General*, the Tribunal found that a provision of the Accident Compensation Act 2001 discriminates on the basis of age against people over 65 years old. Where a person who has cover for personal injury dies as a result of a fatal injury, ACC pays the surviving spouse weekly compensation for five years. However, if the surviving spouse qualifies for New Zealand superannuation, that person is entitled to compensation for no more than twelve months from the time they reach that age unless they suspend their superannuation for the remaining period.

27. The Government plans to introduce legislation amending the ACC Act so that superannuitants can receive both NZ superannuation and surviving spouse weekly compensation for a five-year period.

Adoption Action Incorporated v. Attorney-General

28. The Human Rights Review Tribunal issued its fourth declaration of inconsistency in March 2016. The Tribunal found there were a number of provisions in the Adoption Act 1955 and the Adult Adoption Information Act 1985 that were inconsistent with the right to freedom from discrimination affirmed by section 19 of the NZBORA and issued a declaration of inconsistency under section 92J of the Human Rights Act 1993.

29. The Government does not agree with the Tribunal's findings that the following two provisions are inconsistent with section 19 of NZBORA:

- Section 3(2) of the Adoption Act 1955 which provides that a joint adoption order must be made in favour of "two spouses", and
- Section 7(2)(b) of the Adoption Act which requires the spouse of a sole applicant for an adoption order to consent to any such order being made when the couple are living together.

30. The Tribunal found that "spouse" excludes civil union couples and same-sex de facto couples for the purposes of section 3(2) of the Adoption Act. A Family Court decision released subsequent to the hearing, but prior to the decision in this proceeding, held de facto partners in a same-sex relationship fall within the definition of "spouse".[3] Further, in 2010, the High Court held that partners in an opposite sex de facto relationship fell within the definition of "spouse".[4] The Government is aware of further decisions in the Family Court subsequently applying this finding in granting joint adoption orders in favour of de facto opposite-sex couples.[5]

31. Current Government practice recognises same-sex de facto couples as legitimate adoptive parents by continuing to place both civil union and de facto couples in the adoption pool. It is for the Government and, ultimately, the Courts to continue to apply the Adoption Act in a way that reflects modern legal and social contexts, and that, in practice, results in rights-consistent application.

Declarations of inconsistency under the NZBORA

32. The NZBORA does not contain specific remedies for breaches and the Courts have developed appropriate remedies over time. In July 2015 the High Court issued a declaration of inconsistency under the NZBORA which was the first time a Court has issued a formal declaration as a remedy for a breach of the Act.[6]

33. In *Taylor v. Attorney-General*, the plaintiffs sought a declaration that s 80(1)(d) of the Electoral Act 1993, as amended, is inconsistent with the NZBORA because it disqualifies sentenced prisoners who are in prison from registering as electors. The complete ban on voting by sentenced prisoners was introduced by the Electoral (Disqualification of Sentenced Prisoners) Amendment Act 2010. Prior to that amendment, prisoners could vote if they were serving a sentence of less than three years.

34. In 2010, the Attorney-General had advised the House of Representatives that the new ban on prisoner voting appeared to be an unjustifiable limit on the right to vote affirmed in section 12(a) of the NZBORA. The declaration from the High Court mirrored the conclusion reached by the Attorney-General in his report to Parliament.

35. The Court of Appeal subsequently affirmed that the High Court has the authority to make a declaration that a statute is inconsistent with the NZBORA. The judgment confirms

[3] Re Pierney [2015] NZFC 9404, [2016] NZFLR 53.
[4] Re Application by AMM and KJO to adopt a child [2010] NZFLR 629.
[5] Re G [2015] NZFC 4441.
[6] The declaration was issued in relation to s 80(1)(d) of the Electoral Act 1993 (as amended) because it disqualifies convicted prisoners who are in prison from registering as electors.

that a declaration of inconsistency (DOI) is a NZBORA remedy. The Government has sought leave to appeal this decision to the Supreme Court, in order to test the legal basis and scope of this new form of remedy.

Case law

36. As reported previously, the Covenant has not been directly incorporated into domestic law. However, statutory powers do have to be interpreted consistently with international obligations (where possible). There are a number of immigration cases referring to the Covenant, but otherwise the nature of the cases are such that they are probably best described as those that involve the principles underpinning the Covenant. Examples of New Zealand cases referring to the Covenant between 2012 and 2016 include:

- *Ministry of Health v. Atkinson*[7] (article 2 of the Covenant — non-discrimination and article 26 — equality before the law);
- *Ministry of Health v. Spencer*[8] (article 2 of the Covenant — non-discrimination and article 26 — equality before the law);
- *Teitiota v. Chief Executive of Ministry of Business, Innovation and Employment*[9] *(article 11 of the Covenant — the right to adequate food, clothing and housing);*
- *Harlen v. Ministry of Social Development*[10] *(article 9 of the Covenant — the right of everyone to social security, including social insurance, and article 11 of the Covenant — the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions);*
- *Child Poverty Action Group Inc (CPAG) v. the Attorney-General*[11] *(article 10(2) of the Covenant — obligations relating to the family);*
- *Chan v. Minister of Immigration*[12] *(article 11 of the Covenant — the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing);*
- *Entwistle v. Wellington City Council*[13] *(article 11 of the Covenant — the right to adequate food, clothing and housing);*
- *New Health New Zealand Inc v. South Taranaki District Council*[14] *(article 12 of the Covenant — the right of everyone to the enjoyment of the highest attainable standard of physical and mental health);*
- *M v. Minister of Immigration*[15] *(article 10 of the Covenant — protection of family).*

37. New Zealand takes a proactive approach to consultation on free trade agreements (FTAs) that includes:

(a) *Inter-departmental consultation process*: The negotiation of FTAs is conducted by a team that comprises officials from across Government. Other relevant departments are consulted during the negotiations in the preparation of New Zealand's negotiating position, including Te Puni Kōkiri (the Government department that leads Māori Public Policy and advises on policy affecting Māori wellbeing);

[7] *Ministry of Health v. Atkinson* [2012] 3 NZLR 456 (CA).
[8] *Ministry of Health v. Spencer* CA736/2013 [2015] NZCA 143 [4 May 2015].
[9] *Teitiota v. CE of MBIE* [2015] NZSC 107, [2014] NZCA 173, [2014] NZAR 688, [2013] NZHC 3125, Priestly J.
[10] *Harlen v. Chief Executive of Ministry of Social Development* [2015] NZHC 2663. *Faire J. Harlen v. MSD* [2012] NZHC 669, Courtney J.
[11] *Child Poverty Action Group Inc (CPAG) v. the Attorney-General* [2013] NZCA 402, [2013] 3 NZLR 729, [2013] 3 NZLR 729.
[12] *Chan v. Minister of Immigration* [2015] NZHC 2036, Brewer J.
[13] *Entwistle v. Wellington City Council* [2014] NZHC 496 Mar 18, 2014, Collins J.
[14] *Health New Zealand Inc v. South Taranaki District Council* [2014] 2 NZLR 834.
[15] *M v. Minister of Immigration* — [2013] 2 NZLR 1 (SC).

(b) *Public consultation process*: The Government conducts a wide-ranging consultation programme to raise public awareness of negotiations and seek stakeholder views. Such consultation programmes typically use printed, emailed, and online information, supported by briefings, discussions and correspondence with key stakeholders with an interest in particular areas of the FTA. For many FTAs the Government provides a dedicated contact point available for public enquiries throughout negotiations;

(c) *Māori consultation process*: The *2001 Government-mandated Strategy for Engagement with Māori on International Treaties* lists the areas of developing international law of relevance to Māori and encourages a tailored approach to engagement according to the nature, extent, and relative strength of the Māori interest. In general terms, Māori involvement is expected on any treaty action affecting the control or enjoyment of Māori resources or taonga (an object or natural resource which is highly prized) as protected under the Treaty of Waitangi.

38. Following the conclusion of negotiations, there is a further process of public submissions as part of the Parliamentary treaty examination and legislative processes. This involves:

(a) *Parliamentary treaty examination*. All FTAs are presented to Parliament for examination prior to ratification. The text of the FTA, together with a National Interest Analysis, are presented to Parliament and referred to the Foreign Affairs, Defence and Trade Select Committee. The Select Committee invites the public to make submissions and reports back to Parliament;

(b) *Parliament passes implementing domestic legislation*. Ratification of an FTA will not occur until the domestic legislative changes necessary to ensure New Zealand's compliance with the agreement are passed by Parliament. As with all legislation, the Minister must draw attention to any aspects of a Bill that has implications for, or may be affected by the principles of the Treaty of Waitangi, the rights and freedoms contained in the NZBORA and the Human Rights Act 1993, the principles in the Privacy Act 1993 and international obligations such as those contained in the Covenant. A disclosure statement must also be made.

Trans-Pacific Partnership Agreement

39. The consultation process for the Trans-Pacific Partnership (TPP) was among the most extensive that the Government has undertaken for any trade negotiation. In addition, the Waitangi Tribunal conducted an urgent inquiry into two issues: the adequacy of the "Treaty of Waitangi exception" in TPP; and what Māori engagement and input is now required over steps needed to ratify TPP. On 5 May 2016, the Tribunal released its report [1], finding that there was no breach of the Treaty of Waitangi principles arising from the inclusion of the Treaty of Waitangi exception clause (Article 29.6) in the TPP in its current form. It concluded that the exception clause offers a "reasonable degree of protection" to Māori interests affected by TPP.

40. The Tribunal also considered engagement with Māori on the steps needed to ratify TPP, commenting on future engagement practice, and requesting further information concerning future engagement on implementation of the TPP obligation regarding plant variety rights. The government continues to advise the Tribunal of engagement with Māori concerning plant variety rights as directed. The Tribunal made no findings of breach of the Treaty of Waitangi principles in relation to the TPP engagement process.

41. The Government continues to inform stakeholders on developments regarding TPP. On 12 May 2017, New Zealand having completed the necessary regulatory, administrative and legal steps ratified the TPP. TPP obligations would come into effect when the agreement enters into force, not through ratification. The United States advised TPP signatories in January 2017 that it does not intend to become a party to the TPP. The agreement cannot come into force without the United States' participation.

42. The Government has informed the Tribunal, claimants and the public that the remaining TPP partners, including New Zealand, are currently discussing possible next steps. There are a range of possible scenarios relating to the TPP, including options without

the United States. At the time of writing, discussions between the remaining TPP countries have not been completed, so the next steps are unclear at this time. The New Zealand Government continues to inform stakeholders on developments regarding TPP, with a number of engagements planned for 2017 including specific engagement with Māori.

Future FTA negotiations

43. The EU-NZ FTA is currently in a preparatory phase with formal negotiations expected to be launched in 2017. In early 2016, New Zealand ran a first round of public consultation involving asking for written submissions from the public regarding the prospect of an EU-NZ FTA. In the call for submissions, it was indicated that the Government was seeking input from those with an interest in the prospective FTA negotiations, including businesses, NGOs, Māori and members of the public. Twenty-four submissions were received and are available on the Ministry of Foreign Affairs website. The EU ran a similar public consultation process and New Zealand stakeholders were encouraged to submit in to this process.

44. TPP would coexist with other international agreements, and allow governments to continue to advance work in other areas to address matters of international significance. Article 1.2 of TPP expressly recognises the Parties' intention for the TPP to coexist with their existing international agreements.

45. The TPP includes an investor-state dispute settlement (ISDS) mechanism. The ISDS mechanism applies only to investment provisions in the TPP. The provisions in the TPP ensure the Government's ability to regulate for legitimate public policy purposes is protected, including through the application of the same types of safeguards which are found in New Zealand's existing FTAs with ISDS. In a number of areas the TPP includes additional protections, including a provision that allows the Government to rule out ISDS challenges over tobacco control measures.

46. The TPP Investment Chapter deliberately includes certain safeguards to preserve the Government's right to regulate and to prevent unwarranted ISDS claims including:

(a) Exceptions to the Investment Chapter's rules to limit the scope of the Chapter and therefore limit the scope of ISDS. For New Zealand, these exceptions cover important policy areas such as health and other public services, and the ongoing screening of foreign investment;

(b) A provision that allows the Government to rule out ISDS challenges over tobacco control measures. The Government intends to exercise this provision;

(c) Investment obligations have been drafted to impose a high burden of proof on investors to establish that a TPP government had breached obligations such as "expropriation" or "minimum standard of treatment". The investor has the burden of proving all elements of its claims under the TPP;

(d) Government action (or inaction) that is inconsistent with an investor's expectations will not in and of itself constitute a breach of the Investment Chapter leading to potential ISDS, even if there is loss or damage to the covered investment;

(e) Government decisions not to issue, renew, or maintain decisions to modify or reduce subsidies or grants will not in and of itself constitute a breach of expropriation, or the minimum standard of treatment obligations leading to potential ISDS;

(f) The consultation and negotiations processes are compulsory for any potential ISDS case. This provides an opportunity for any case to be resolved prior to it reaching a full arbitral hearing;

(g) Limiting the types of monetary awards and damages that can be made against the Government. The Government cannot face claims for punitive damages and costs can also be awarded against an investor if their claim is ultimately unsuccessful;

(h) In addition to existing arbitration procedures, the Government is expressly permitted to make a counterclaim and obtain damages when the investor is in the wrong under a covered investment agreement;

(i) Provisions allow TPPA governments to issue binding interpretations on ISDS tribunals;

(j) Provisions mean hearings will be open to the public, and which allow tribunals to accept submissions from experts and the public;

(k) Procedures and rules that limit the possibility of an ISDS claim being made in the first place. Claims must be submitted before three and a half years have passed, and the investor must initially enter into consultation and negotiations to attempt to resolve the claim with the Government. Any preliminary objections from the Government, for example that the claim goes beyond a tribunal's jurisdiction or is manifestly without legal merit, must be resolved before the full arbitration commences.

Health

47. Within New Zealand, there are large disparities in health status between population groups, with Māori children, Pasifika children, and children from low-income families experiencing poorer health outcomes than the overall child population. The Government is addressing this by developing policies, structural arrangements and consultation mechanisms which recognise the disparities in health status that currently exist within these groups. Some examples of these are listed below.

Well Child/Tamariki Ora universal services

48. The Well Child/Tamariki Ora (WCTO) programme supports and promotes the healthy development of children and their families from birth to five years. A key component of this programme is the provision of home visiting services by trained nurses and Kaiawhina (Māori community health workers). The Government has provided funding to lift the overall WCTO enrolment rate in each region.

49. In 2015, there were significant improvements in timeliness and completion of appointments for Māori children, Pasifika children and highly deprived children reducing the equality gap that has been reported in previous periods. Initial analysis suggests that if improvement rates for Māori, Pacific and highly deprived children are maintained, equitable rates of coverage and delivery of the programme with the wider population could be achieved by 2018/19. The Government has initiated a review of WCTO content, timing and delivery modes to support expected gains in improvement rates.

Childhood Immunisation

50. The Government is committed to the World Health Organization goal of achieving the Global Vaccine Action Plan (GVAP) and uses this framework to develop and strengthen its national immunisation policy. The government uses an immunisation information system that schedules vaccines and precalls/recalls patients. This has led to successful health gains for Māori and Pasifika communities.

51. We continue to focus on achieving equitable coverage for all New Zealanders, including vulnerable and marginalised members of society by measuring immunisation coverage across all ethnicities and deprivation strata. Since 2008, immunisation rates have significantly improved, and gains have been made towards health equity. The primary series of immunisations is given at ages 6 weeks, three months and five months. Coverage for these immunisations measured at age 12 months highlights that between 94 and 95 percent of the total population are now fully immunised. Māori coverage at this age is between 93 and 94 percent, and Pacific and Asian coverage is between 97 and 98 percent each. Those living in the most deprived two deciles have 94 percent immunisation coverage at age 12 months. This compares with immunisation coverage rates of 83 percent overall and 76 percent for Māori at age 12 months in 2008.

52. Despite this we are still challenged with ensuring immunisations are given on time. For example, coverage measured at eight months was 93 percent at 31 December 2016. Māori coverage at this age was 91 percent, and Pasifika coverage was 97 percent. Those living in the most deprived two deciles had 92 percent immunisation coverage at age eight

months. Measuring coverage by ethnicity and deprivation at age two years shows similar results.

53. Structural inequalities were recognised early in the term of the immunisation target as having the potential to reduce overall coverage, but in particular the coverage of Māori children, and also those living in the most deprived communities. An outreach programme was developed addressing the impact of differential health literacy, and poorer access to primary health care and transport.

Youth Health

54. The YMHP was set up in 2012 as a cross-government project to improve services for youth aged 12 to 19 years with, or at risk of, developing mild to moderate mental health problems. It brings together 26 initiatives to improve the mental health and wellbeing of young people. An evaluation by the Social Policy Evaluation and Research Unit (Superu) in November 2016 found that the YMHP was a worthwhile financial investment, generating both public and private benefits. As a result, more services and resources are available to identify, support and treat youth with, or at risk of developing mild to moderate mental health issues, with more than 180,000 youth reached so far.

Education

55. Over many years, the New Zealand education system has been characterised by relatively high levels of disparity. At every stage, the system is less successful for Māori and Pasifika students and students from low-income families. The Government has addressed this by developing policies and programmes recognising the disparity. Examples of these programmes and an assessment of how they have addressed structural inequalities are listed below.

Early Childhood Education Participation Programme

56. In 2010 the Early Childhood Education (ECE) participation programme was designed to raise participation of low socio-economic, Māori, and Pasifika children and their families, who have not engaged in ECE. The ECE participation programme supports the Government's Better Public Service goal that 98 percent of children starting school will have participated in quality ECE. It aims to reduce and remove barriers to participation that these families face.

Engaging Priority Families

57. This initiative provides intensive support to families with three and four year olds in target communities to enrol in ECE, sustain participation, and support successful transition to school. The Government currently contracts 20 providers for the initiative. These providers engage and support almost 1,000 children from Māori, Pasifika and low socio-economic status families with three or four-year-old children at any given time.

Supported Playgroups

58. Supported Playgroups provide an ECE option for communities that have large numbers of non-participating children. It is often attractive to parents of younger children who want to remain with their child in ECE. The Government contracts nine Supported Playgroups in targeted areas with low participation in ECE, and has 265 children enrolled.

The Māori Education Strategy

59. The Māori Education Strategy Ka Hikitia — Accelerating Success 2013-2017 is to ensure every Māori student achieves their potential. A guiding principle of the strategy is that language, culture and identity are important for students to do better in education.

Progress of the Maori Education Strategy

60. The strategy has resulted in some progress towards achieving Government targets for Māori children. Prior participation in ECE for Māori children increased from 88.7 percent (June 2008) to 94 percent (June 2015).

61. Figure 1 shows the percentage of Māori performance in primary National Standards had improved slightly but remained approximately 10 percent behind rates for those who identify as European.

Figure 1

Proportion of students achieving at or above the National Standard (%)

	Reading			*Maths*			*Writing*		
	2013	*2014*	*2015*	*2013*	*2014*	*2015*	*2013*	*2014*	*2015*
Māori	68.7	68.6	68.8	64.6	65.0	65.4	60.8	61.2	61.6
European	84.0	84.3	84.3	79.8	80.5	80.7	76.3	76.8	77.3

National Certificate of Educational Achievement (NCEA)

62. The number of Māori 18 year-olds with a National Certificate of Educational Achievement (NCEA) Level 2 qualification or equivalent increased to 67.7 percent which represents a 10 percentage point increase over the last three years. This is still significantly below the target of 85 percent.

63. Figure 2 shows an increase in Māori school leavers achieving University Entrance from 2009 to 2015. Although there has been a significant increase in the proportion of Māori school leavers achieving NCEA Level 3 or above, the gap between Māori and non-Māori achievement has narrowed only slightly (0.7 percentage points) since 2009. The goal of parity between the two groups to be achieved in 2017 will be unlikely.

Figure 2

Proportion of Māori school leavers achieving University Entrance (%)

	Māori		*Non-Māori*	
Year	*2009*	*2015*	*2009*	*2015*
Percentage	19.10	31.10	47.50	58.80
Percentage point		+12		+11.30

64. Figure 3 shows an increased proportion of Māori attaining a New Zealand Qualifications Framework Level 4 or above qualification by age 25 since 2007 to 2014. The Ka Hikitia goal of an increase in the proportion of Māori who attain a NZQF Level 4 or above qualification by age 25 has been achieved. However between 2007 and 2014 there has consistently been a gap of at least twenty percentage points between the proportions of Māori and non-Māori twenty-five year olds who have completed a tertiary qualification at NZQF Level 4 or above.

Figure 3

Māori attaining a New Zealand Qualifications Framework Level 4 or above qualification by age 25 (%)

	Māori		*Non-Māori*	
Year	*2007*	*2014*	*2007*	*2014*
Percentage	20	30	40	50
Percentage point		+10		+10

The Pasifika Education Plan

65. Pasifika communities[13] have a long history and an important presence in New Zealand (7 percent of the population in 2013). The Government has a Pasifika Education Plan to ensure a strong and continued focus on improving educational results for Pasifika children, students, and young people.

66. The current Pasifika Education Plan 2013-2017 builds on previous efforts and focuses on accelerating achievement. It adopts a "Pasifika" way of working with the community and educational agencies, recognising the importance of collective partnerships, relationships, and responsibilities.

67. Two years into implementation of the current Pasifika Education Plan, there have been positive shifts for many Pasifika learners, but the pace is slow. For example:

- The rate of Pasifika learners participating in ECE has increased from 86.7 percent (2012) to 91.2 percent (30 June 2015). The aim is to increase participation to quality ECE to 98 percent.
- The aim is by 2017, 85 percent will be achieving at or above their appropriate National Standard. Pasifika achievement in reading, writing and mathematics has lifted, however, it is unlikely based on current rates that the target of 85 percent will be reached.
- The number of Pasifika school leavers leaving with NCEA level 1 literacy and numeracy qualifications has increased from 84.1 percent (2013) to 85.7 percent (2014) with the gap between Pasifika and the total student population closing to 2.9 percent points.[14]
- The percentage of Pasifika 18 year olds achieving NCEA Level 2 or an equivalent qualification has increased from 68.1 percent (2012) to 75 percent (2014).[15]

Social Services

68. Social services provide access to health services, education and housing opportunities, and protect and support the most vulnerable in society. The need for social services falls unevenly across the population. There are groups that disproportionally experience poorer social outcomes including low educational achievement and poor health, than the general population. These groups include Māori and those living in high deprivation areas.

69. The Government asked the Productivity Commission in June 2014 to look at ways to improve the effectiveness of the social services it funds. The Productivity Commission found that there are positive attributes in the social services system, but there are also weaknesses. It made 61 recommendations on ways to improve social services. In particular it recommended improving the way that services are commissioned, increasing client empowerment in what and how services are accessed, improving the use of data and innovation, and improving system stewardship. It particularly highlighted that there needs to be a better way to improve outcomes of the most disadvantaged New Zealanders (those who have complex needs and low capacity to co-ordinate and access services). The Government has recently announced the establishment of a new model to improve outcomes for vulnerable New Zealanders including a targeted focus on improving outcomes for Māori and Pacific children and young people.

70. New Zealand employs a wide range of measures to reduce violence against all persons. This includes:

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[13] Many people born in Tokelau (a New Zealand territory), Cook Islands and Niue (both self-governing and in free association with New Zealand), are recognised as New Zealand citizens. New Zealand also has a special relationship with Samoa, confirmed through the Treaty of Friendship signed in 1962.

[14] http://www.educationcounts.govt.nz/statistics/pasifika-education-projects-against-pasifika-education-plan-targets

[15] http://www.educationcounts.govt.nz/__data/assets/pdf_file/0009/174636/2015-Pasifika-School-Leavers.pdf

- Primary prevention measures to change community attitudes towards violence; support for community-based initiatives to reduce violence; and initiatives to support individuals to protect themselves, such as self-defence training and education in schools;
- Interventions and services to help people to get away from violent relationships and change the behaviour of perpetrators;
- Family violence legislative reforms;
- Services to help victims of violence to recover, including counselling for victims of sexual violence;
- Measures to help reduce assaults on children such as better screening and better enabling of frontline workers and communities to voice concerns about children;
- The Harmful Digital Communications Act aimed at combating different types of online violence and aggression.

71. In late 2014 the Government established a Ministerial Group comprising Ministers responsible for 16 portfolios who are committed to making collective decisions to systematically improve the whole family violence system in New Zealand. The Ministerial Group has established a comprehensive cross-government work programme with the objectives of:

- Stopping family violence from occurring in the first place, reducing the harm caused by family violence and breaking the cycle of revictimization and re-offending;
- Ensuring family violence services are delivered in an efficient, effective and integrated manner and investment decisions are coordinated and aligned to common goals across agencies.

72. New approaches and pilots are now being tested throughout New Zealand. Once evidence on effectiveness has been gathered, the Government will consider further investment to improve the family violence system.

73. At the same time the Government has been undertaking a major review of New Zealand's family violence laws. The Family and Whanau Violence Legislation Bill was introduced to Parliament in March 2017, and is currently before select committee. This bill implements the decisions announced by the Government in September 2016 aimed at breaking the pattern of family violence and reducing the harm and cost inflicted on those who suffer violence and wider New Zealand society, including increasing access to risk and needs assessments and services, more accurately recording family violence offending in the criminal justice system, enabling the introduction of codes of practice, and new information sharing provisions.

74. New Zealand made good progress toward reducing violent recorded crime from 2011 to the end of 2014, but reported violent recorded crime has climbed slightly since then.[9] The bulk of this increase comes from dwelling based violence which is strongly correlated with family violence.

75. The annual rate of intimate partner violence against women decreased from 8.6 percent in 2005 to 5.7 percent in 2013 and the annual rate of sexual violence experienced by women decreased from 5.2 percent in 2005 to 2.9 percent in 2013. There has been a significant decline in the rate of interpersonal violence experienced by Maori women, regardless of relationship to the offender, since 2005 (18.9 percent in 2013 compared with 29 percent in 2005).

76. The Government has introduced a new elder abuse intervention service (EARS) with national coverage to help keep older New Zealanders safe. The cornerstone of EARS is a free and confidential 24/7 help-line to provide information, advice and referral to service providers to ensure safety and access to services to address victim needs.

[9] New Zealand regularly monitors and publishes crime rate information and progress toward reducing crime. Such information can be found at http://www.mo.govt.nz/bps/reducing-crime.

Children

77. The Modernising Child, Youth and Family Expert Panel's Final Report "Investing in New Zealand's Children and their Families"[14] (publicly released on 7 April 2016) considered how can we transform the lives of our vulnerable children.

78. The Expert Panel's Final Report established the current system does not meet the needs of vulnerable children and young people, or help them grow into flourishing adults. The Panel found the current system is fragmented, lacks accountability, and is not well-established around a common purpose. Importantly, the system as a whole is ineffective in preventing further harm, as shown by high rates of children and young people coming back into the system.

79. The Expert Panel's Final Report also found there is a need to address the over-representation of Maori children in the system. Potential causes of this over-representation include higher levels of deprivation in Maori families, unconscious and unconscious bias in the system, and a lack of strong, culturally appropriate models for strengthening families and child development.

80. The Government has introduced major State care reforms to improve the long-term outcomes for New Zealand's most vulnerable children, such as the establishment of the Ministry for Vulnerable Children, Oranga Tamariki from 1 April 2017. It will be a single point of accountability, which will ensure that government agencies work together to provide coherent and complete services to these children, young people and their families.

81. Legislative changes include amendments to the Children, Young Persons, and Their Families Act 1989 (CYPF Act) to:

- Extend the provisions of the statutory care and protection system to young people aged 17 years;
- Embed the views of children and young people at an individual and a systemic level by strengthening obligations in the CYPF Act to support the participation of children and young people;
- Support the establishment of independent advocacy services, with a particular focus on children and young people in care, through a new duty on the chief executive of the department administering the CYPF Act;
- Enable a broader range of professionals to perform a wider set of functions under the CYPF Act to help identify and meet the needs of vulnerable children and young people.

Transgender persons

82. There is limited data on the violence experienced by transgender New Zealanders. However, what data we do have has shown that transgender young people are at higher risk of experiencing violence. The Youth 2012 survey measured 8,166 secondary school students. — 50 percent of those who identified as transgender reported being hit or harmed by another person (compared to 13 percent of those who did not identify as transgender). The Youth 2012 survey was the first time youth were asked about gender.

83. Because of this, the Government provides funding to a range of organisations supporting Lesbian Gay Bisexual Transgender Intersex Questioning (LGBTIQ) young people, at both a national and local level. Funding has helped support:

- Mentoring and leadership opportunities. The Government has allocated $150,000 over three years to Rainbow Youth Inc[15] to develop and increase support services to LGBTIQ youth;
- Youth-led projects and projects developed through partnerships across communities; and

[14] http://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/investing-in-children/investing-in-children-report.pdf

[15] http://www.ry.org.nz/

- A co-design process between a non-government organisation and young people, to develop mental health and wellbeing to help LGBTIQ young people, and those supporting them, to navigate the transition of leaving school and entering training, employment or further education.

Assessing the effectiveness of measures to combat violence for disabled people in New Zealand

84. At present, there is a lack of robust data and appropriate measures for violence against disabled people in New Zealand. Disabled people will receive support and assistance where they are affected by violence. The difficulty currently lies in being able to measure the level and effectiveness of assistance that is provided specifically to disabled people.

85. Work is underway to identify what quality New Zealand data and measures of abuse and neglect for disabled people might look like.

III. Implementation of the Covenant

A. Article 1 (2) — Right to freely dispose of natural wealth and resources

86. The Waitangi Tribunal has reported on many issues, from te reo Māori and the radio spectrum to freshwater, underground resources, and fisheries. Waitangi Tribunal recommendations are generally non-binding. As per New Zealand's constitutional arrangements, the New Zealand Government is entitled, after considering a report, to decide not to follow the recommendations or to reject any part of its findings. Many of the recommendations contained in the Waitangi Tribunal's reports have been implemented by governments. The reports have contributed to many initiatives and new institutions, including Reo Irirangi (Māori Radio), Te Taura Whiri i te Reo Māori (the Māori Language Commission) and Te Māngai Pāho (the Māori Broadcasting Funding Agency).

Land

87. In 2015 the Waitangi Tribunal heard claims from Māori land owners regarding the reform of Te Ture Whenua Māori Act 1993.[21] The Tribunal issued its report, *He Kura Whenua Ka Rokohanga*, on 11 March 2015. The Tribunal found that the Crown would be in breach of Treaty principles if it did not ensure that there was properly-informed, broad-based support from Māori for Te Ture Whenua Māori Bill to proceed.

88. With regard to the provisions of the Bill, the Tribunal noted that Treaty principles do not require any one specific form of protection mechanism, so long as it is effective and has the properly informed, broad-based support of Māori. However, the Tribunal concluded that a number of the Bill's provisions nullified or weakened the mechanisms intended to ensure the retention of Māori land. That was inconsistent with the Crown's duty of active protection. The Tribunal also found other aspects of the Bill relating to succession and compulsory dispute resolution to be inconsistent with Treaty principles.

89. The Tribunal recommended that the Crown avoid prejudice to Māori by engaging further nationally via meetings and written submissions, after ensuring that Māori are properly informed with empirical research. The Tribunal also made a number of other general and specific recommendations to the Crown concerning both the review and reform process and the new Bill.

90. Following the Tribunal's release of *He Kura Whenua Ka Rokohanga*, the Government listened to the wide range of views from Māori on the report (including the Ministerial Advisory Group, Iwi Chairs, Federation of Māori Authorities, Māori land owners) the Tribunal's findings and recommendations, including those relating to specific

[21] Māori land legislation aims to ensure Māori land is retained in Māori ownership, while enabling land owners to use their land how they wish.

aspects of the Bill. The Government undertook an extensive consultation process and at all times acted reasonably, fairly and honestly.

91. While some of the findings (and resulting recommendations) about specific aspects of the Bill had been addressed through recent policy work, the legislative process would provide an appropriate mechanism to address the remaining issues. In light of this, the Bill was introduced on 14 April 2016.

Water

92. In March 2012, the Waitangi Tribunal granted an application for an urgent hearing into two claims about proprietary rights in freshwater bodies and geothermal resources. The Inquiry was divided into two stages.

93. Following the release of the Stage 1 report the Crown and the Iwi leaders Group worked together on four workstreams for developing options to address iwi and hapū rights and interests in fresh water; improving water quality; recognising traditional tribal relationships with waterbodies; involving iwi/hapu in freshwater governance and management; and facilitating economic development using freshwater resources. In February 2016 the Government released the consultation document Next Steps for Fresh Water which included eight completed proposals relating to the water quality, recognition and governance workstreams. These proposals will build on the recognition of Māori interests in rivers and lakes already provided through Treaty settlements.

94. Stage Two of the Waitangi Tribunal inquiry will commence in November 2016. The Tribunal's issues for determination focus on the proposals in Next Steps for Fresh Water. While the Crown is preparing for the remaining Stage 2 hearings, work continues on the proposals in Next Steps for Fresh Water and options are being developed for reforming the water allocation system. The Crown is committed to working closely with the Iwi Leaders Group on fresh water.

Marine

95. In terms of marine water, the government recognises that iwi Māori interests in the ocean include safeguarding taonga and mahinga kai (food gathering locations and resources), spiritual practices, customary rights and commercial and recreational fishing.

Language, Culture, Traditional Knowledge and Intellectual Property

96. The Waitangi Tribunal's 2011 report Ko Aotearoa Tenei (commonly referred to as WAI 262) is about New Zealand law and policy affecting Māori traditional knowledge, culture and identity. It is a wide ranging report and was issued after a lengthy inquiry process and deliberations by the Tribunal. The Crown's engagement with Wai 262 issues is located within the broader context of on-going work to strengthen Crown-Māori relationships.

97. In April 2016 Te Ture mo Te Reo Māori Māori Language Act 2016 was enacted. It is the first piece of legislation in New Zealand to be entirely enacted in both Te Reo Māori and English, with the Māori version to prevail in the event of conflict between the two versions. The Act acknowledges the detrimental effects of past policies and practices of the Crown towards the Māori language. The Act also provides for an ongoing commitment from the Crown to work in partnership with iwi and Māori to continue actively to protect and promote the Māori language for future generations.

98. The purpose of the Act is to affirm the status of the Māori language as the indigenous language of New Zealand, as a taonga of iwi and Māori, as a language valued by the nation and as an official language of New Zealand. To assist in achieving this purpose, the legislation establishes an independent statutory entity, Te Mātawai, that will provide leadership on behalf of iwi and Māori in their role as kaitiaki (guardians) of the Māori language.

99. Two examples of ways in which Iwi Māori rights to conserve, promote and develop their own culture, language and cultural heritage are assisted by the Government are:

- Whare Taonga: The Regional Museum Policy Fund which assists iwi actively planning iwi museums (whare taonga) in the future. These whare taonga will hold iwi taonga (treasures) and will be owned, governed and/or managed by iwi, according to Māori cultural practices.
- Newly found taonga tūturu: Under section 11 of the Protected Objects Act 1975, newly found taonga tūturu are in the first instance Government owned until a determination on ownership is made by the Māori Land Court to iwi or another party.[7] In the interim, the Ministry for Culture and Heritage is legally responsible for the recording, custody of the taonga tūturu, facilitating claims for ownership and any conservation treatment required in addition. Once iwi obtain ownership through the Māori Land Court process the taonga tūturu is legally theirs.

100. Initiatives within the wider context of the claims and recommendations relating to taonga works and intellectual property include matters such as passing the Haka Ka Mate Attribution Act 2014, and policy and legislative developments relating to the trademark and geographical indications regimes.

101. Approaches to genetic and biological resources of taonga species have been progressed through the Patents Act 2013 and provisions in our Free Trade Agreements (since 2008) exist to protect this policy space (including, most recently in the Trans-Pacific Partnership agreement).

B. Article 2 (1) — Obligation to take steps to the maximum of available resources

Figure 4

Budget for sectors relevant to employment, social security, health and education ($billions) [8]

	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016
Vote Social Development					
Work and Income (Employment Support)	0.645	0.669	0.650	0.656	0.670
Superannuation	9.584	10.235	10.913	11.991	12.267
Main Benefits	4.920	4.790	4.568	4.441	4.471
Total of Selected Appropriations	**15.149**	**15.694**	**16.131**	**16.688**	**17.407**
Vote Education					
Total Appropriation	**9.154**	**9.476**	**9.693**	**10.244**	**10.742**
Vote Tertiary Education					
Total Appropriation	**2.704**	**2.737**	**2.855**	**3.000**	**3.030**
Vote Health					
Total Appropriation	**13.549**	**13.866**	**14.387**	**15.031**	**15.407**
Total Spend Relevant to ICESCR ($billions)	**40.556**	**41.773**	**43.966**	**44.966**	**46.469**

New initiatives to address inequalities

102. As part of Budget 2016, a social investment package was designed to help the most at-risk New Zealanders lead better lives. The package, which provided $641.6 million of operating funding over four years and $10.5 million of capital, included additional support for vulnerable children as well as initiatives in corrections, education and health. These

[7] A Taonga Tūturu is an artefact that relates to Māori culture, history, or society, and is more than 50 years old.

[8] Data supplied by New Zealand Treasury.

initiatives put the needs of our most vulnerable children and families at the centre of decisions on planning, programmes and resourcing.

103. Appropriations relevant to the Covenant such as employment support, superannuation, main benefits, education and health have been increasing in the last five years. The consolidated spend for these appropriations from 2011/2012 to 2015/2016 totals over $216 billion.

Measures to ensure private companies respect the Covenant rights

104. Private companies must observe New Zealand domestic laws in their operations. These include the provisions of the Human Rights Act and provisions of the Employment Relations Act 2000 (ER Act). Other employment statutes also contain rights and entitlements relevant to the Covenant — for example equal pay and paid parental leave. The ER Act provides for the enforcement of employment rights including labour inspection and enforcement, mediation and adjudication, as well as specific penalties for breaches.

105. The Health and Safety at Work Act 2015 (HSW Act) holds private companies liable within New Zealand and its Exclusive Economic Zone (EEZ). The HSW Act was enacted partly to respond to concerns over the treatment of crew members on Foreign Charter Vessels and to extend coverage of New Zealand's health and safety legislation to the EEZ.

106. The HSW Act explicitly protects a worker's right to cease or refuse to carry out unsafe work, as well as a health and safety representative's right to direct that unsafe work cease in a workplace. If a person violates this or other workers' rights under the Act, they will be held liable via specific penalties for breaches of the Act that are enforceable by the New Zealand courts.

107. The Fisheries (Foreign Charter Vessels and Other Matters) Amendment Act 2014 requires all foreign-owned fishing vessels operating in New Zealand waters to be reflagged to New Zealand from 1 May 2016. This will mean that New Zealand will have jurisdiction over areas like employment and labour conditions on all vessels fishing in New Zealand's EEZ, to ensure fair standards for all fishing crews working in our waters.

108. The Government has also implemented a range of measures to strengthen monitoring and enforcement of New Zealand's fishing and labour standards. For example there are now observers on all Foreign Charter Vessels, and the Government is using a specialised auditing company to carry out independent audits of Foreign Charter Vessels to ensure crew visa requirements, including wages, are adhered to.

109. The Immigration Amendment Act 2015 makes it an offence to exploit temporary migrant workers. Previously, it was only an offence to exploit unlawful workers. Employers who exploit temporary workers face a jail sentence of up to seven years, a fine not exceeding $100,000, or both. The Act also created a new offence for employers who exploit legal temporary or unlawful workers and are reckless as to their immigration status. This offence carries a jail sentence of up to five years, a fine not exceeding $100,000, or both. In addition, exploitative employers who hold residence visas will also be liable for deportation if the offence was committed within 10 years of gaining residence.

110. The Government has several policies and programmes to hold private companies liable for violating the economic, social and cultural rights of migrants and victims of trafficking.

(a) The Government has made changes to Immigration Instructions to help encourage migrants who have been subject to workplace exploitation to come forward and hold those responsible accountable.

(b) The Government is working closely with non-government organisations likely to deal with potential victims of trafficking to ensure a joined-up approach to victim identification and support. This partnership approach recognises the important role that our communities play and the value of government and non-government collaboration.

(c) The Government has developed a specific Victims of Trafficking Immigration Policy to assist identified victims, which allows them to remain in New Zealand lawfully, so removing the fear of deportation.

(d) The sex industry and labour in the horticulture/viticulture industries have been identified as high risk sectors for trafficking in the New Zealand context. The Government has a role in educating employers to ensure they are aware of their legal responsibilities and undertakes enforcement activities in these industries to ensure compliance with this and other Acts. In addition, these industries are regulated via policy and legislation that allow transparency and access to these industries by government officials who are, therefore, well placed to detect any trafficking activity.

(e) Government agencies are paying particular attention to the Canterbury region, where there has been an influx of migrant workers to assist with the post-earthquake rebuild. The focus is primarily on identification and prevention of labour exploitation and the Government has committed extra resources to boost the number of labour inspectors and immigration officers dealing with the Canterbury rebuild.

(f) There is also a significant amount of work going on to educate and empower migrant workers and their employers to understand and act on their rights and obligations. Immigration New Zealand's Settlement Unit has developed specialist guides for migrant workers and employers in the aged care sector, the dairy and construction sectors, and for Pacific communities. The resources include information on minimum employment rights, health and safety, improving workplace communications and where to go for further settlement support.

Migrant Exploitation Prevention Strategy 2015-2018

111. The Government's Migrant Exploitation Prevention Strategy 2015-2018 aims to support the integrity of New Zealand's labour market by ensuring migrant workers are treated fairly. Interventions supporting Strategy outcomes include providing effective education to migrant employees and their employers (including private companies) via communication campaigns and targeted employment guides.

112. The Government liaises with NGOs and community representatives / associations to ensure victims of migrant exploitation through forced labour and other means receive support and guidance. The Government invests in activities that increase the likelihood of non-compliant employers being held accountable by improving the ability to detect, investigate and effectively prosecute employers who engage in migrant exploitation and the supply chains of which they are a part. This includes developing Sector Strategies and proactive, intelligence-led targeting of employers who exploit migrants.

Remedies available for victims of violations of Covenant rights by private companies

113. New Zealand is a party to the OECD Guidelines for Multinational Enterprises. The Guidelines require adhering governments, through specific national Contact Points to contribute to the resolution of any issues that arise relating to their implementation in "specific instances". Complaints can be made by interested or affected parties that the activities of a Multinational Enterprises are contrary to the provisions of the Guidelines. In such cases, the role of governments is to investigate and assess any such allegations and, where substantive issues are identified, to attempt to facilitate dialogue between the parties in an effort to resolve the issues raised.

C. Article 2 (2) — Non-discrimination

114. The 2013 Disability Survey: Social and economic outcomes for disabled people shows that, on average, disabled people experience poorer economic and social outcomes across their life course than non-disabled people.

115. Disabled adults have lower incomes than non-disabled adults and are less likely to be employed. Forty-five percent of disabled adults are in employment compared with 72 percent of non-disabled adults. Disabled people are less likely to hold a formal qualification, with 67 percent holding a school or tertiary qualification. This compares with 85 percent of non-disabled adults. Disabled people are also far less likely to say they had

very good or excellent health (10 percent of disabled people compared with 33 percent of non-disabled people).

The New Zealand Disability Strategy 2016-2026

116. In November 2016, the Government released the updated New Zealand Disability Strategy 2016-2026 (Strategy). The Strategy will guide the work of government agencies on disability issues for the next ten years. It supports the implementation of our obligations under the United Nations Convention of the Rights of Persons with Disabilities in the New Zealand context. The Strategy was co-designed by disabled people and government officials through an extensive consultation process. The vision of the Strategy will be achieved through eight outcome areas: Education, Employment and Economic Security, Health and Wellbeing, Rights, Protection and Justice, Accessibility, Attitudes, Choice and Control and Leadership. Implementation of these outcomes will be done through actions under the Disability Action Plan. An Outcomes Framework will outline how progress against the implementation of the Strategy will be monitored. The targets and indicators for the Outcomes Framework will be developed during 2017.

117. The Minister of Disability Issues reports annually to Parliament on progress towards the implementation of the Strategy.

Disability Action Plan

118. The Disability Action Plan (Plan) sets out priorities for action that promote disabled people's participation and contribution in society. Priorities for action within the current four-year Plan (2014-2018) were developed through consultation with disabled people and Disabled People's Organisations. Disabled People's Organisations continue to be involved in the governance of the Plan and implementation of its actions.

119. The current Plan has four shared results:

- Increase employment and economic opportunities;
- Transform the disability support system;
- Ensure personal safety;
- Promote access in the community.

Refugees and Asylum seekers

120. In June 2016 the Government increased the size of the Refugee Quota from 750 to 1000 places per year from 1 July 2018.

121. Quota refugees are granted residence on arrival in New Zealand and have the same access to employment, education, income support and health services as other New Zealand residents or citizens and are eligible to apply for New Zealand citizenship after five year's residence. People in New Zealand who have been found to be a refugee or protected person under the Immigration Act 2009 have the same access to employment, education, income support and public health services, and are eligible to apply for residence and New Zealand citizenship after five years residence.

122. Quota refugees and people with refugee or protected person status are eligible to apply for the Student Allowance and Student Loans on the same basis as New Zealand citizens, and the two-year residential stand-down period (where the applicant has to have lived in New Zealand for at least two years and be ordinarily resident in New Zealand) may be waived.

123. Asylum seekers who have made a claim for refugee or protection status and are lawfully in New Zealand can apply for the Emergency Benefit and Temporary Additional Support but not for other social security assistance. If they have a valid work visa, they are able to apply for government assistance to gain employment. Asylum seekers who have made a claim for refugee or protection status are eligible to access public health services.

124. Asylum claimants whose claim is declined may appeal to the Immigration and Protection Tribunal (the Tribunal), an independent body which commenced in November

2010, following the implementation of the Immigration Act 2009. The Tribunal provides a streamlined appeal process, replacing the Refugee Status Appeals Authority, Removal Review Authority, Residence Review Board and Deportation Review Tribunal.

D. Article 3 — Equal rights of men and women

125. Promoting women in leadership is one of the Government's top priorities for women. New Zealand's membership to the Pacific Leaders' Gender Equality Declaration (PLGED) has been a useful vehicle through which New Zealand has tracked its progress on increasing women's participation in leadership roles. In its membership to the PLGED, New Zealand has a strong commitment to supporting Pacific Island nations to track their progress and strengthen their efforts to address women's representation in leadership.

126. Women in New Zealand have made steady gains in representation at central and local government level and on statutory boards. Representation at top levels in the private sector has improved, but is still relatively low.

Representation at central and local government

127. The gender representativeness of Parliament has increased significantly since the advent of the Mixed Member Proportional (MMP) voting system in 1996, although it still has some way to go before it reflects the gender balance in New Zealand society. There are 41 women (34 percent) Members of Parliament (MPs) in the 51st Parliament, equal to the record 41 elected to the 49th Parliament in 2008. Nine of 27 Ministers of the Crown (37 percent) and seven of 20 Cabinet Ministers (35 percent) are women.[25] The Green Party and Māori Party have women co-leaders, both of whom are MPs.

Local government

128. The proportion of women elected to local bodies has risen from one-quarter to one-third (33 percent) over the past 25 years, with the number of women candidates also increasing (to 31 percent).[26] Community and district health boards tend to have greater proportions of women standing compared to other electoral positions. In 2013 these were at 37 percent and 47 percent respectively. The number of women elected city mayors rose from 19 percent in 2007 to 31 percent in 2013.

Women's representation in the public service

129. The Government continues to monitor women's participation in the public service. Women's overall representation in the public service remained stable between 2005 and 2015, at approximately 60 percent.

130. The number of women chief executives has increased. As at 30 June 2015, 41 percent (12 of 29) of chief executives were women compared with 24.1 percent in 2012. Women occupied 44.2 percent of senior leadership positions in the public service (the top three tiers of management) as at 30 June 2015.[27]

Women's representation on statutory boards

131. Government continues to work to increase women's participation on statutory boards, and to create an environment where key decision-makers accept the importance of appointing women and actively seek out suitably qualified women candidates.

132. The Government has reached its target of appointing 45 per cent of women to state sector boards and committees, the highest percentage ever. As at December 2016, women

[25] http://www.dpmc.govt.nz/cabinet/ministers/ministerial-list

[26] https://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Services-Local-Elections-Local-Authority-Election-Statistics-2013?OpenDocument#two

[27] State Services Commission (October 2015): Human Resources Capability in the New Zealand State Services. Wellington.

made up 45.3 per cent of state sector boards and committees.[28] This is a significant increase on 43.4 percent in 2015.

Increasing the representation of women on private sector boards

133. Women made up 17 percent of directors and 19 percent of officers (chief executives and senior managers) of all listed companies in 2015. There is a range of private sector initiatives to encourage women onto private sector boards and into senior roles.

E. Article 6 — Right to work

Figure 5
Unemployment rate by sex (%) year ended December

Year	Male	Female	Total
2012	6.1	6.7	6.4
2013	5.2	6.4	5.8
2014	4.7	6.1	5.4
2015	4.9	5.9	5.4
2016	4.8	5.5	5.1

Figure 6
Unemployment rate by age group (years) (%) year ended December

Year	15-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65+	Total
2012	24.3	12.3	7.3	5.4	4.7	4.4	4.2	4.1	3.7	3.9	1.6	6.4
2013	22.7	10.6	6.7	4.7	4.5	3.9	3.7	3.4	3.7	3.6	1.6	5.8
2014	19.9	10.4	6.1	4.9	3.7	4.0	3.8	3.0	3.0	2.9	1.6	5.4
2015	20.3	9.9	6.2	4.6	3.3	3.6	3.3	3.6	3.5	3.1	1.5	5.4
2016	20.5	9.3	6.2	4.4	3.1	3.2	2.9	3.4	3.3	3.0	1.2	5.1

Figure 7
Unemployment rate by ethnicity (%) year ended December

Year	NZ European	Māori	Pasifika	Asian	Middle Eastern, Latin American and African	Other ethnicity	Total
2012	5.0	13.8	14.6	8.1	10.4	5.6	6.4
2013	4.6	12.5	14.3	5.7	9.2	4.1	5.8
2014	4.1	11.8	11.6	5.9	12.3	4.2	5.4
2015	4.1	11.7	10.9	6.3	9.4	3.6	5.4
2016	3.9	11.4	9.7	6.0	8.8	5.2	5.1

Figure 8
Unemployment rate by urban and rural area (%) year ended December[29]

Year	Urban	Rural	Total Area
2012	6.8	4.2	6.4
2013	6.0	4.5	6.0
2014	5.6	3.9	5.6
2015	5.6	3.6	5.6

[28] http://women.govt.nz/documents/2016-gender-stocktake-state-sector-boards-and-committees-2017
[29] Data provided by Statistics NZ

Year	Urban	Rural	Total Both
2016	5.3	3.7	5.4

Figure 9

Underemployed rate by sex (%) year ended December

Year	Male	Female	Total Both Sexes
2012	2.6	6.0	4.2
2013	2.4	6.0	4.1
2014	2.6	5.9	4.1
2015	2.3	5.7	3.9
2016	2.6	6.2	4.3

Figure 10

Underemployed rate by age (%) year ended December

Year	15-19	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60-64	65+
2012	15.7	6.8	3.6	3.5	3.0	3.5	3.5	3.3	3.2	3.6	1.9
2013	14.9	7.7	3.6	3.1	3.1	2.8	3.3	3.2	3.7	3.0	2.5
2014	16.7	6.7	3.1	3.0	3.0	2.9	3.5	3.8	3.4	2.7	2.1
2015	14.4	7.5	3.2	2.6	3.2	3.4	2.7	2.8	2.8	2.5	1.9
2016	17.6	7.3	4.1	3.6	3.1	3.2	3.1	3.0	3.0	3.0	2.5

Figure 11

Underemployment rate by ethnicity (%) year ended December

Year	NZ European	Māori	Pasifika	Asian	Middle Eastern, Latin American and African	Other ethnicity
2012	3.9	6.2	5.2	4.9	5.4	5.0
2013	4.0	6.1	5.3	3.9	5.3	4.5
2014	3.9	6.4	4.8	3.8	6.3	3.8
2015	3.6	5.6	4.3	4.1	5.1	4.7
2016	4.1	6.6	4.7	4.7	7.3	3.3

Figure 12

Underemployment rate by urban and rural area (%) year ended December[a]

Year	Urban	Rural	Total Both
2012	4.3	3.6	4.2
2013	4.2	3.4	4.1
2014	4.2	3.7	4.1
2015	4.0	3.2	3.9
2016	4.4	3.4	4.3

134. Statistics on multiple employment in New Zealand are only available to March 2015 (latest available as at 20/02/2017). Percentage of all employed.

[a] Data provided by Statistics NZ

Figure 13
Multiple employment by sex (%)

	Total sex		*Male*		*Female*	
Number of jobs	*2*	*3 or more*	*2*	*3 or more*	*2*	*3 or more*
Quarter						
Mar-15	3.4	0.2	2.4	0.1	4.4	0.3
Dec-14	3.8	0.3	2.6	0.2	4.9	0.4
Sep-14	3.6	0.2	2.4	0.1	4.7	0.4
Jun-14	3.6	0.2	2.5	0.1	4.8	0.4
Mar-14	3.4	0.2	2.4	0.1	4.5	0.3
Dec-13	3.8	0.3	2.7	0.1	5.0	0.4
Sep-13	3.6	0.2	2.5	0.1	4.8	0.4
Jun-13	3.8	0.3	2.6	0.1	4.9	0.4
Mar-13	3.5	0.2	2.4	0.1	4.6	0.3

Figure 14
Multiple employment by age (%)

	Age 15-24		*Age 25-34*		*Age 35-44*		*Age 45-54*		*Age 55-64*		*Age 65*		*Total age*	
Quarter	*2*	*3+*	*2*	*3+*	*2*	*3+*	*2*	*3+*	*2*	*3+*	*2*	*3+*	*2*	*3+*
Mar-15	4.9	0.3	2.9	0.2	2.7	0.2	3.3	0.3	3.3	0.3	2.8	0.3	3.4	0.2
Dec-14	5.4	0.3	3.2	0.2	3.2	0.2	3.7	0.3	3.7	0.4	3.2	0.3	3.8	0.3
Sep-14	4.7	0.2	3.1	0.2	3.1	0.2	3.7	0.3	3.6	0.3	3.0	0.3	3.6	0.2
Jun-14	5.0	0.3	3.2	0.2	3.1	0.2	3.7	0.3	3.6	0.3	3.1	0.3	3.6	0.2
Mar-14	5.0	0.3	2.9	0.2	2.8	0.2	3.4	0.3	3.3	0.3	3.0	0.2	3.4	0.2
Dec-13	5.5	0.3	3.3	0.2	3.2	0.2	3.8	0.3	3.7	0.4	3.3	0.3	3.8	0.3
Sep-13	4.9	0.3	3.2	0.2	3.1	0.2	3.7	0.3	3.6	0.3	3.1	0.2	3.6	0.2
Jun-13	5.1	0.3	3.3	0.2	3.2	0.2	3.8	0.3	3.7	0.3	3.3	0.3	3.8	0.3
Mar-13	5.0	0.3	2.9	0.2	2.9	0.2	3.5	0.3	3.4	0.3	3.0	0.2	3.5	0.2

135. Statistics on the multiple employment rate by urban and rural area in New Zealand are only available from June 2016.

Figure 15
Multiple employment rate by urban and rural area (%) (data only available from June 2016 quarter)

Quarter		*Urban*	*Rural*	*Total Rate*
June 2016 quarter	Single job holder	87.7	12.3	100
	Multiple job holder	79.0	21.0	100
September 2016 quarter	Single job holder	88.2	11.8	100
	Multiple job holder	77.9	22.1	100
December 2016 quarter	Single job holder	88.3	11.7	100
	Multiple job holder	77.4	22.6	100

136. The Government currently does not hold comparable data for multiple employment rates by ethnicity. The Household Labour Force Survey was redeveloped in June 2016 and now collects more robust data on multiple job-holding. In the future this will build up to a time series and will be able to provide multiple employment rates by ethnicity.

Figure 16

Those Not in Education, Employment or Training by sex (%) year ended December

	Aged 15-19 years		*Aged 20-24 years*		*Total aged 15-24 years*	
Year	*Male*	*Female*	*Male*	*Female*	*Male*	*Female*
2012	8.8	9.4	13.5	22.5	11.2	16
2013	7.5	9.0	10.4	20.7	9.0	14.9
2014	7.8	7.9	10.7	19.3	9.2	13.7
2015	7.1	7.4	11.6	18.8	9.4	13.3
2016	8.6	7.5	12.8	18.5	10.8	13.2

Figure 17

Those Not in Education, Employment or Training by age (%) year ended December

Year	*Aged 15-19 years*	*Aged 20-24 years*	*Total aged 15-24 years*
2012	9.1	18	13.5
2013	8.3	15.5	11.9
2014	7.8	14.9	11.4
2015	7.3	15.1	11.3
2016	8.1	15.5	12.0

Figure 18

Those Not in Education, Employment or Training by ethnicity (%) year ended December

	European			*Māori*			*Pasifika*			*Asian*		
Year	*Aged 15-19 years*	*Aged 20-24 years*	*Total aged 15-24 years*	*Aged 15-19 years*	*Aged 20-24 years*	*Total aged 15-24 years*	*Aged 15-19 years*	*Aged 20-24 years*	*Total aged 15-24 years*	*Aged 15-19 years*	*Aged 20-24 years*	*Total aged 15-24 years*
2012	8.0	15.5	11.7	15.1	33.1	23.0	11.3	28.1	18.8	5.7	14.1	10.4
2013	6.4	13.6	9.9	16.4	31.4	22.9	14.0	27.8	20.1	4.0	6.8	5.7
2014	6.6	12.6	9.5	13.6	27.1	19.8	10.1	26.7	17.9	4.0	8.9	7.0
2015	6.0	12.5	9.3	13.5	29.5	20.8	8.3	25.2	16.2	4.4	9.3	7.3
2016	6.6	12.9	9.9	13.6	27.4	20.0	12.5	22.6	17.2	5.7	13.4	10.2

Figure 19

Those not in Education, Employment or Training by urban and rural area (%) year ended December[1]

Year	*Urban*	*Rural*	*Total Both*
2012	13.7	12.4	13.5
2013	11.9	12.3	11.9
2014	11.4	11.7	11.4
2015	11.4	10.3	11.3
2016	12.1	11.1	12.0

Impact of measures taken to promote adequate employment for women

137 In the December 2016 quarter, there were 800 fewer women employed in the construction industry in Canterbury than at the same time the previous year. Women made

[1] Data provided by Statistics NZ

up 16.3 per cent (7,500) of construction workers in Canterbury in the December 2016 quarter. While the number of female construction workers in Canterbury has fallen in the last year, women still make up a larger percentage of the construction industry than before the earthquakes. In the December 2010 quarter women made up 12.7 per cent (3,000) of the construction industry workforce in Canterbury.

Impact of measures taken to promote adequate employment for Maori

Māori and Pasifika Trades Training

138. Māori and Pasifika Trades Training (MPTT) is designed to enable more Māori and Pasifika learners, aged 16-40, to obtain practical qualifications and progress to employment or a workplace-based training.

139. Analysis of the impact shows MPTT has made some good progress in terms of performance and progression of MPTT graduates into apprenticeships. Performance figures indate that course completion rates in 2014 were 7.6 percent higher for the MPTT than Non-MPTT Māori and Pasifika learners, studying towards the same qualifications.

Te Puni Kōkiri Cadetships Initiative

140. Te Puni Kōkiri Cadetships Initiative was developed to increase Māori achievement in higher-level qualifications. The Government partners with employers in targeted industries including energy, infrastructure telecommunications, transport/logistics, food processing, knowledge-intensive manufacturing or primary industries (excluding the forestry sector) to grow Māori capability and/or improve Māori labour market resiliency during economic recessions, increase Māori participation in strategic and/or growth industries, and build productive relationships with Māori communities.

141. Since its inception in 2009, 1767 cadets have participated in the Cadetship Initiative. The level of interest from employers has increased as the value of the initiative has been recognised by sector leaders. In 2014-15 17 employers took on 350 cadets. The number of cadets remaining in employment has increased since 2009 from 71 percent to 100 percent in 2013/2014.

Impact of measures taken to promote adequate employment for young people

142. Building Skilled and Safe Workplaces (SSW) brings together New Zealand's targets and initiatives for lifting New Zealanders' skills and qualifications, reducing long-term unemployment and strengthening workplace health and safety. The SSW work stream's major results include:

- Lifting the educational achievement of young New Zealanders and supporting them into education, training or employment. Outcomes for young people remain challenging with 15-24 year-olds not in employment, education or training rising slightly from 11.3 percent in the year to December 2015 to 12 percent in the year to December 2016. On track to increase the proportion of 25-34 year-olds with qualifications at New Zealand Qualifications Framework Level 4 or above (i.e. advanced trade qualifications, diplomas and degrees).
- Getting people off benefits and into employment. Since the Government Welfare Reforms on the labour market were introduced in 2012, the number of people on a main benefit has dropped. In December 2016 the number of people on main benefits was 297,010 a reduction from 350,932 in December 2011.
- Apprenticeship participation. An increase in apprenticeship enrolments and participation can be attributed to the Reboot Scheme which was a subsidy for both employers for training expenses and an individual signing up to an apprenticeship. The scheme ran from 6 March 2013 to 31 December 2014 and was intended to enhance the profile of New Zealand Apprenticeships, attract new apprentices considering a trade vocation, and to provide an incentive for employers to take on new apprentices. A total number of 20,000 apprenticeship places were funded.

Youth Guarantee Scheme

161. The Youth Guarantee scheme was introduced in 2009 as an initiative to improve the educational achievement of 16 and 17 year olds, particularly those who had not been well-served by traditional schooling.

162. Youth Guarantee initiatives include to improve NCEA Level 2 or equivalent achievement, particularly for Māori and Pasifika, and provides pathways for secondary tertiary transitions through progression into further education or training. It is focused on the 70 percent of young people who do not progress to degree level education with a particular focus on those groups who are at risk of not achieving.

Impact of measures taken to promote adequate employment for persons with disabilities

163. The Government provides work-focused case management for disabled people and people with health conditions to support them to gain and maintain employment. The Government has also trialled initiatives to support this cohort back to employment, such as through the Young Supported Living Payment trial.

164. The Government funds a range of organisations to provide specialist services such as supported employment for disabled people and people with health conditions. The impacts of some of the specialist employment interventions for disabled people have produced mixed results. Some interventions show promise. Project 300 was a regional intervention launched in April 2015 that aimed to get 300 health and disability clients into work. The Project exceeded its goal with 305 clients into full-time work and 79 clients into part-time work. Following its success, Project 300 has been rolled out across the country under the name "Employ Ability".

F. Article 7 — Right to just and favourable conditions of work

165. The Employment Standards Legislation Bill included a package of measures to prevent unfair employment practices in the New Zealand labour market, such as "zero-hour contracts". The changes prohibit:

- Zero hour contracts by prohibiting unfair employment practices where employers do not commit any hours of work, but expect employees to be available when required without compensation;
- Employers requiring employees to be available to work for more than the agreed hours without having a genuine reason based on reasonable grounds;
- Employers requiring employees to be available to work for more than the agreed hours without paying reasonable compensation for the number of hours the employee is required to be available;
- Employers cancelling a shift without the provision for reasonable notice or reasonable compensation;
- Employers putting unreasonable restrictions on secondary employment of employees;
- Employers making unreasonable deductions from employees' wages.

166. The New Zealand adult minimum wage rate is one of the highest wage rates in the OECD and has been for a number of years. It is currently set at $15.75 hour. The minimum wage rate is reviewed annually. The objective of the minimum wage review is to keep increasing the minimum wage over time to protect the income of low-paid workers.

167. The adult minimum wage is a minimum entitlement which applies to all employees aged 16 years or over. There are two other minimum wage rates which are set at 80 percent of the adult minimum wage:

- The starting-out wage applies to eligible employees aged 16 to 19 years; and
- The training wage applies to employees aged over 20 years who are undertaking a minimum amount of qualified training.

[illegible]

[illegible]

[illegible]

Human Rights Act 1993

[illegible]

[illegible]

Figure 20

[illegible] Part 1 & Part 2 (Grouped by [illegible])

[illegible]	[illegible]
[illegible]	455
[illegible]	282
[illegible]	199
[illegible]	136
[illegible]	103
[illegible]	93
[illegible]	82
[illegible]	80
[illegible]	53
[illegible]	46
[illegible]	30
[illegible]	27
[illegible]	23
[illegible]	19
[illegible]	11

[illegible]

[illegible]

[illegible]

156. Remedies available are at the discretion of the Tribunal [14] including an order restraining the defendant from continuing or repeating the breach, damages, an order that the defendant perform any acts specified in the order with a view to redressing any loss or damage suffered by the complainant, an order that the defendant undertake any specified training or any other programme, or implement any specified policy or programme in order to assist or enable the defendant to comply with the provisions of the HRA, or any other relief the Tribunal thinks fit.

Employment Relations Act 1992

157. The Employment Relations Act (ERA) protects employees from discrimination and sexual and racial harassment.[15] The prohibited grounds for discrimination replicate those in the HRA and include sex, religious belief and ethnic or national origins, among others. Discrimination includes refusing or omitting to offer or afford to that employee the same terms of employment, conditions of work, fringe benefits or opportunities for training, promotion, or transfer as are made available for other employees of the same or substantially similar qualifications, experience or skills employed in the same or substantially similar circumstances.

158. The ERA also provides a means to address bullying in employment. Repeated verbal or emotional attacks on an employee may constitute a breach of good faith, as the duty of good faith requires parties in an employment relationship to be active and constructive in maintaining productive employment relationships.

159. The Government provides a free employment mediation service to help resolve employment relationship problems. In 2015, the mediation service received 7,115 applications. This included 55 applications which were recorded as relating to discrimination.[16]

160. If mediation is unsuccessful or not wanted, employees can raise a personal grievance with their employer under the ERA in relation to discrimination, sexual or racial harassment or workplace bullying. Employees may then bring proceedings in the Employment Relations Authority and subsequently the Employment Court.

161. The Employment Relations Authority or the Employment Court may award a range of remedies[17] including reinstating the employee in the employee's former position or the placement of the employee in a position no less advantageous to the employee, reimbursing the employee of a sum equal to the whole or any part of the wages or other money lost by the employee as a result of the grievance, compensation, disciplinary or rehabilitative action (in sexual or racial harassment cases).

Health and Safety at Work Act 2015

162. Under the Health and Safety at Work Act 2015 (HSWA), a person's behaviour can be considered a hazard where that behaviour has the potential to cause death, injury or illness to a person. Workplace bullying that creates a risk to the health and safety of workers can therefore be considered a workplace hazard. The HSWA requires that a person conducting business or an undertaking must do what is reasonably practicable to eliminate or minimise a health and safety risk. A failure to manage the risk arising from workplace bullying could give rise to enforcement action being taken by WorkSafe NZ.

[14] Human Rights Act 1993 section 92I.

[15] The prohibited grounds for discrimination are the same as those in the Human Rights Act 1993 and include sex, religious belief and ethnic or national origins, among others. Discrimination in this context includes refusing or omitting to offer or afford to that employee the same terms of employment, conditions of work, fringe benefits or opportunities for training, promotion, or transfer as are made available for other employees of the same or substantially similar qualifications, experience or skills employed in the same or substantially similar circumstances.

[16] This may underestimate the number of discrimination cases as information is not systematically collected on the type of employment relationship problem.

[17] Employment Relations Act 2000 section 123-128.

G. Article 8 — Trade Union Rights

163. The Employment Relations Amendment Act 2016 (ER Act) includes changes to collective bargaining which aim to increase choice and flexibility for parties within the collective bargaining framework, reduce ineffective bargaining, and improve fairness and balance in bargaining requirements. Changes include:

- No requirement for collective agreement to be concluded, however parties must still deal with each other in good faith. The ER Act provides some protections against parties that end bargaining by deadlocking on one issue. Either party can seek a declaration from the Employment Relations Authority about whether bargaining has concluded;
- Removal of the "30-day rule" for new employees. Previously the law required new employees (who were not union members) to be employed on the terms and conditions in the collective agreement for their first 30 days on the job if their work was covered by a collective agreement. The removal of this rule means employees who are not union members can negotiate an individual agreement as they see fit from the start of their employment, even if there is a collective agreement that covers their work;
- Employers can opt out of bargaining for a multi-employer collective agreement. Where an employer opts out, the employer or union can then initiate bargaining for a single employer collective agreement;
- Written notice in advance needed for all strikes and lockouts. This change means unions or employees must give written notice of any proposed action to the employer and the Chief Executive of the Ministry of Business Innovation and Employment;
- Specified pay deductions for partial strikes. Employers have the option to reduce the pay employees would have received if there was no partial strike. Employers must give the workers written notice before making the deduction. If employees think their employer has made or calculated an incorrect deduction, the union must ask the employer in writing for the information they used to calculate the pay deduction. The employer must respond and if the union considers that the employer made a mistake, they must tell the employer. Where the union and employer cannot resolve the matter, the union can apply to the Employment Relations Authority.

H. Article 9 — Right to social security

Measures taken to ensure that ongoing welfare reforms do not further disadvantage the most marginalized individuals and groups

164. Participation in employment offers the best opportunity to increase family income to the benefit of parents and children. Welfare reforms reset expectations to encourage those who can work to be actively looking for work. People receiving a main benefit are required to meet work obligations consistent with their work capacity. Those with children are also obliged to take all reasonable steps to ensure that they are accessing key Government services for their children such as education and primary health care. Sanctions are only applied as a last resort with efforts made at every stage to help the client re-comply.

165. Welfare reforms increase support to those most at risk of long term benefit dependence. The reforms have resulted in increased availability of employment assistance and case management support for those most likely to stay on benefit long term, for example sole parents and those with health conditions or disabilities. Main benefit numbers in June 2016 were lower than in June 2011.

Social assistance measures in place for those no longer entitled to insurance-linked benefits

166. New Zealand does not have insurance-linked benefits; instead New Zealand has welfare benefits based on need-based eligibility criteria that are not linked to insurance

contributions.[7] Welfare eligibility is not linked to contributions and is not time-limited; therefore no social assistance measures are required as entitlement is on-going, provided recipients meet the conditions of assistance.

167. The intent of the welfare reform is to improve outcomes for New Zealanders by ensuring that those who can work are actively looking for work. The reforms also ensure that beneficiaries with children are taking all reasonable steps to ensure that they are accessing key Government services such as primary health care and education for their children (social obligations). It is the most disadvantaged and vulnerable families in the benefit system who are more likely to not fully participate in child education and health initiatives.

168. Sanctions are only used when clients do not have a good and sufficient reason for not meeting their obligations and assistance can be resumed provided the client meets their obligations. The sanction regime for work obligations is tiered, with sanctions increasing if the client does not meet their obligations on additional occasions. A sanction reduces the amount of benefit payment payable to the client. All clients who fail their obligations have a five working day notice period to dispute the failure or recomply before a sanction is imposed.

169. For clients with dependent children, 50 percent protection applies across all sanction levels, in order to maintain a level of income available for the support of children, and supplementary assistance continues to be paid. The policy settings have been designed to maintain a level of income protection for children.

170. Should beneficiaries fail to take reasonable steps to meet their social obligations, they must be contacted at least four times before initiating a failure to meet a social obligation. At each contact point, staff encourage and support the client to meet their social obligations. If a client does not agree with a sanction imposed they have the right to apply for a Review of Decision at any time within three months of the original decision being advised.

I. Article 11 — Right to an adequate standard of living

171. New Zealand does not have an official poverty measure. The Government publishes a range of measures including both traditional income measures and non-income hardship measures. A range of thresholds help the Government understand what is happening at different levels of disadvantage.

172. Figures are based both on low household incomes and measures of material hardship. Household incomes are calculated both before deducting housing costs (BHC) and after deducting housing costs (AHC).

BHC income (income before deducting housing costs)

173. Household income from all household members from all sources after paying income tax gives an indication of the different levels of financial resources available to different households, all else being equal.

174. There are many factors other than current income that make a difference to the actual day-to-day living standards of households. For example, the largest item on the household budget for many households is accommodation costs. Accommodation costs cannot usually be changed in the short-term. To better compare the material wellbeing of households when using incomes, household income after deducting housing costs (AHC incomes) is also used.

AHC income (income after deducting housing costs)

175. AHC income (ie BHC income after deducting housing costs) is a very useful measure for understanding the real-life differences in consumption possibilities for

[7] More information on eligibility criteria is available at www.workandincome.govt.nz

households when looking at income alone. AHC income is sometimes called "residual income".

176. One of the low-income measures the government uses is "50 percent of median after deducting housing costs" measure, with the threshold held fixed in real terms relative to an anchor year (2007) to monitor how children are faring in real terms relative to a fixed standard.

177. The Government has developed a Housing Affordability Measure (HAM) that calculates AHC for renters and potential first home buyers using government administrative data. This provides a clearer picture of shifts in housing affordability trends for households, and gives the Government a more robust measurement of how much income households have left after their basic household costs have been paid.

178. There are other factors (in addition to income and housing costs) that also contribute to a household's material wellbeing. The combined impact of all these factors on a household's material wellbeing can be captured by examining more directly the actual living conditions and consumption possibilities that households experience.

MWI (Material Wellbeing Index)

179. The MWI is made up of 24 items that give direct information on the day-to-day actual living conditions that households experience. They are about the basics such as food, clothes, accommodation, electricity, transport, keeping warm, maintaining household appliances in working order, and so on, and also about the freedoms households report to purchase and consume non-essentials that are commonly aspired to.

180. Figure 21 below shows trends in low income rates for children (0-17 years) from 2001 to 2015 and the trends in material hardship from 2007 to 2015 using a measure and threshold close to the European Union's "standard" material deprivation threshold.

Figure 21
Trends in low income and material hardship rates, children (0-17 years)

	Low incomes (before deducting housing costs)		*Low incomes (after deducting housing costs)*				
	Moving line (relative low income)		*Moving line (relative low income)*		*Anchored line (set at 2007)*		*Material hardship*
Year	*50 percent*	*60 percent*	*50 percent*	*60 percent*	*50 percent*	*60 percent*	*50 percent*
2001	12%	24%	21%	30%	27%	37%	-
2004	14%	26%	19%	28%	23%	31%	-
2007	13%	20%	16%	22%	16%	22%	14%
2010	14%	23%	20%	30%	19%	26%	20%
2013	11%	20%	20%	24%	17%	22%	15%
2015	13%	21%	20%	28%	15%	21%	14%

181. Figure 22 compares the low income and material hardship rates for children, older New Zealanders (aged 65+) and for the whole population.

Figure 22
Low income and material hardship rates for children (0-17 years), older New Zealanders (65+) and the population as a whole

	Low incomes (after housing costs, 50% 2007 median)			*Material hardship (using the EU's standard threshold)*		
Year	*children*	*65+*	*ALL*	*children*	*65+*	*ALL*
2001	27%	7%	18%	-	-	-
2004	23%	6%	17%	-	-	-

	Low incomes (after housing costs, 50% 2007 median)			*Material hardship (using the EU's standard threshold)*		
Year	*children*	*65*	*All*	*children*	*65*	*All*
2007	16%	7%	13%	14%	4%	10%
2010	19%	5%	12%	20%	3%	12%
2013	17%	3%	12%	15%	2%	9%
2015	15%	4%	11%	14%	3%	8%

182. Figure 23 shows low income and material hardship rates for different ethnic groups for children (0-17yrs), and for the population as a whole.

Figure 23

Low income and material hardship rates for different ethnic groups for children (0-17 yrs), and for the population as a whole

	Low incomes (after housing costs, 50% 2007 median)		*Material hardship (using the EU's standard threshold)*	
Year	*children*	*All*	*children*	*All*
2012-2014 (avg)	18%	12%	14%	8%
European	12%	9%	9%	6%
Māori	26%	20%	26%	21%
Pacific	21%	17%	41%	34%
Other	23%	19%	6%	4%

183. Figure 24 shows low income and material hardship rates by family status and for the population as a whole. Please note the sole parent household category captures only two in three sole parent families as one in three live in households with other adults.

Figure 24

Low income and material hardship rates by family status and for the population as a whole

		Low incomes (after housing costs, 50% 2007 median)		*Material hardship (using the EU's standard threshold)*	
Year	*Family status*	*children*	*All*	*children*	*All*
2012-2014 (avg)	Population	18%	12%	14%	8%
	Sole parent	54%	53%	33%	33%
	Two parent	10%	10%	7%	7%
	Other family households with children	12%	11%	17%	17%

Obstacles to reducing child poverty

184. Child poverty is dynamic and the causes are multiple and varied.[39] The Expert Advisory Group on Solutions to Child Poverty established by the Children's Commissioner reported low household income is a major dimension of child poverty and is the result of a combination of factors. These factors include labour market conditions, low skill levels or limited expertise, social and health issues, housing costs, and government policies and spending priorities.

[39] Children's Commissioner's Expert Advisory Group report Solutions to Child Poverty in New Zealand: Evidence for Action (2012).

185. The Government's key initiatives to address child poverty include:

- Promoting economic growth through sound fiscal and macro-economic management;
- Welfare reform, aimed at reducing long-term benefit dependence and the negative outcomes associated with that dependence;
- Increasing investment to reduce hardship in families with children — including increases to benefits, family tax credits and childcare assistance — alongside increased work expectations for beneficiary parents;
- Taking an investment approach, which means investing time and resources where they will be most effective in reducing long-term benefit receipt;
- Education reforms such as national standards aimed at addressing New Zealand's tail of poor educational achievement;
- Free doctors' visits for children under 13 years of age, home insulation subsidies and breakfast in schools;
- The Whānau Ora initiative which recognises the need for a holistic view of the issues affecting individuals and their wider families.

186. The Government is taking steps to better support vulnerable and low income families to access essential items and support, particularly for low income families with dependent children.

187. In 2015, the Government announced a $790 million package to support children living in hardship. The package provided an increase in financial support to both beneficiary and low income working families to help relieve pressure on the budgets of these households. To better support these families, from 1 April 2016 the Child Material Hardship Package provided:

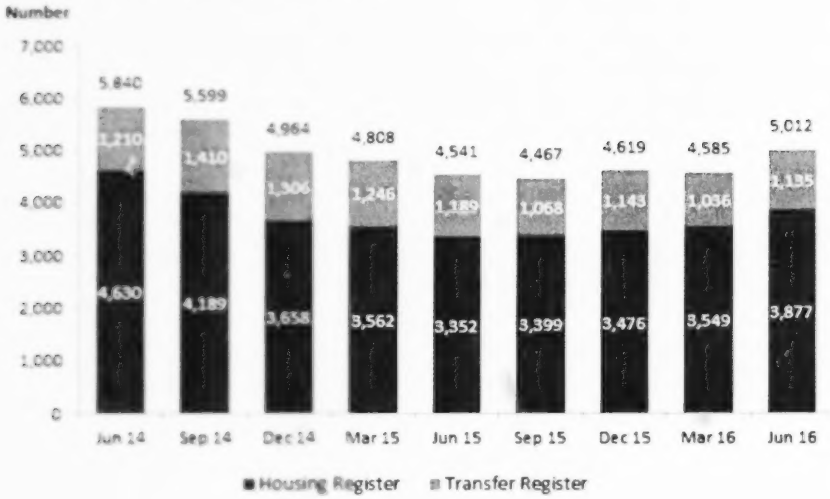
- A $25.00 per week (after tax) increase in core benefit rates for families with dependent children — the first substantial increase to core benefit rates since 1972;
- An increase in Working for Families Tax Credits — a $12.50 per week increase in the In-Work Tax Credit and a $12.00 per week increase in the Minimum Family Tax Credit;
- An increase in Childcare Assistance targeted through new lower income thresholds — the top rate of Childcare Assistance increased from $4.00 to $5.00 per hour.

188. The increase in financial support is expected to have a direct impact on helping to relieve pressure on the budgets of the lowest income families with children. This increase in financial support will strengthen the position of these households so they are better able to purchase essential items for their children, such as food and clothing, as examples.

Social Housing

189. Eligibility for social housing is confined to clients who are determined at risk (priority A) or in serious housing need (priority B). The Social Housing Register is divided into the Housing Register and the Transfer Register. The Housing Register includes eligible applicants ready to be matched to a suitable property. The Transfer Register is made up of people already in social housing but who have requested, and are eligible for, a transfer to another property. As at 30 June 2016 there were 3,877 households on the housing register ready to be matched to a suitable property.

Figure 25
Social housing register numbers by register



190. The main applications for the Social Housing Register for June 2016 were for:

- Single-person applicants, either a single adult with child(ren) (35.3 percent) or a single adult (45.2 percent);
- Applicants in the 25 to 39 years age group (34.4 percent);
- Applicants who self-identified as Māori (42.1 percent);
- One bedroom houses (41.3 percent).

191. The Social Allocation System (SAS) is the assessment tool used to process applications for social housing. Applicants are asked a series of questions to determine eligibility and need for social housing. Questions are structured to understand the applicant's current living situation and whether they have a need to move, including the condition of their existing home, the presence of domestic violence, and overcrowding.

192. A second component of the needs assessment is assessing a person's need for social housing. This has less to do with their current living situation and more to do with their ability to access, sustain, and afford a private rental.

Social Housing Reform Programme

193. The Social Housing Reform Programme will increase the diversity and supply of social housing in New Zealand and encourage more innovation and responsiveness to tenants. This includes ensuring social housing places are available for those who need it by paying Income Related Rent Subsidy (IRRS) to social housing providers and opening up IRRS to community housing providers.

194. The Government has successfully implemented a range of demand management initiatives to help people to move into the private market and reduce the need for social housing. These initiatives are targeted at both those on the social housing register and those in social housing which frees up a place for someone on the register. In 2016 the Government committed $144.5 million towards new social housing supply in Auckland, and $354 million towards emergency housing.

Affordability

195. Housing affordability is a significant issue for many New Zealand families, the economy and Government as high house prices increase social and economic inequality.

The Government is delivering a work programme to improve housing affordability. The work spans five key areas:

- The supply of land;
- The regulation of planning, development and building;
- The provision of infrastructure;
- The level of skills and innovation in the construction sector;
- The delivery of new housing.

196. Key initiatives include:

- **The Housing Accords and Special Housing Areas Act 2013** — This act enables the streamlining of new housing developments in special housing areas, which are expected to deliver an additional 60,000 homes in Auckland alone once they are fully developed;
- **National Policy Statement on Urban Development Capacity** — A National Policy Statement on Urban Development Capacity has been developed to direct councils to provide sufficient development capacity for housing and businesses in urban areas with growth pressures. The National Policy Statement was finalised on 31 October 2016 and became operative on 1 December 2016;
- **Urban Development Legislation** — The Government is considering legislation to enable publicly-controlled urban development authorities to access powers to acquire parcels of land and then plan and oversee the necessary development. Developments could include housing, commercial premises, associated infrastructure, and amenities including parks, community spaces or shopping centres;
- **Direct facilitation of new housing supply** — The Government is undertaking a programme of work to facilitate housing construction, delivering 34,000 brand new purpose-built houses over 10 years, including more social and affordable homes. The houses will be built on vacant and under-utilised Crown-owned land in Auckland, and through redeveloping Housing New Zealand Corporation's Auckland housing portfolio;
- **Housing Infrastructure Fund** — in September 2016, the Government made $1 billion available to assist councils with high urban population growth to advance infrastructure projects important to increasing housing supply. Specifically the fund will bring forward the construction of water supply, wastewater, stormwater and transport infrastructure to allow the development of land and houses faster than would have occurred without it;
- **The Māori Housing Strategy** — In 2014 the Government released the Māori Housing Strategy. The Māori Housing Network (part of Te Puni Kōkiri, the Ministry of Māori Development) was launched in October 2015 to help more whānau access safe, secure and healthy homes. As at 30 April 2017 it has contributed to the costs of 63 new affordable rental homes owned by Māori collectives, funded housing repair projects for 379 whānau, and funded infrastructure development for 176 homes.

Habitability

197. All houses in New Zealand are expected to comply with the requirements of the Health Act 1956, Housing Improvement Regulations and, in the case of new builds and certain renovations, the current Building Code. Landlords, including where the State is the landlord, must comply with the Residential Tenancies Act 1986 which states that landlords must provide the premises in a reasonable state of cleanliness and repair, and comply with all requirements in respect of building health and safety.

198. Any premises which are deemed to be dangerous or unsanitary may be issued with a cleansing or closing order by the local authority.

199. The Māori Housing Network funds the improvement of housing for whānau to help houses meet minimum standards of habitability. To date, it has supported repairs of 379

homes generally in rural and sometimes remote locations. The Network has also supported eight emergency housing projects to help whanau without homes.

200. Amendments to the Residential Tenancies Act in 2016 strengthened the powers of the Government to investigate and take action against landlords who seriously or persistently breach the Act, where there is a public interest to do so. The Residential Tenancies Act further provides for tenancies to be terminated if the property is considered to be either destroyed or so seriously damaged as to be uninhabitable. In such cases landlords must give tenants seven days' notice; tenants must give landlords two.

201. Amendments to the Act last year also made it compulsory for all rental properties to have smoke alarms from 1 July 2016 and for all private rental properties to have underfloor and ceiling insulation installed to a required standard (where it can be practically installed) by 1 July 2019.

Security of Tenure

202. Under the Residential Tenancies Act 1986, landlords and tenants may negotiate and sign a fixed-term tenancy for any length of time. Upon the expiry of the fixed-term the tenancy rolls over to a periodic tenancy, provided neither party takes action to renew or end the tenancy. In a periodic tenancy if the landlord chooses to terminate the tenancy they must give the tenant 90 days' notice (with some exceptions); tenants must give their landlords 21 days' notice to terminate the tenancy. On average, 46 percent of Census respondents had been in their property less than two years. The average length of tenancy based on bond data is approximately two years.

203. New Zealand has recently updated its residential tenancies legislation to improve the security of tenure for tenants. The Residential Tenancies Amendment Act, in force from 1 July 2016, has increased the length of time available to tenants to contest an alleged retaliatory notice at the Tenancy Tribunal from 14 to 28 days. Further, issuing a retaliatory notice is now an unlawful act. Landlords who have been found to have issued such a notice may face a penalty of up to $4,000.

J. Article 12 — Right to physical and mental health

Ala Mo'ui: Pathways to Pacific Health and Wellbeing 2014-2018

204. 'Ala Mo'ui: Pathways to Pacific Health and Wellbeing 2014-18 is a four-year plan to deliver high-quality health services that meet the needs of Pasifika. An evaluation of the plan in 2015 showed areas where the health sector is performing well for Pasifika and where further improvement is needed. Below are tables showing increased rates of access to services.

Figure 26
Increased access rate to mental health services between 2012/2013 and 2014/2015 (%)

	2012/2013	*2013/2014*	*2014/2015*
Pacific	2.90	2.89	3.13
Total New Zealand	**3.40**	**3.47**	**3.46**

Figure 27
Increased access rate to alcohol and drug services between 2012/2013 and 2014/2015 (%)

	2012/2013	*2013/2014*	*2014/2015*
Pacific	0.81	0.85	1.24
Total New Zealand	**1.00**	**1.01**	**1.03**

Figure 28

Increased rate of adults receiving cardiovascular risk assessments between March 2013 and September 2015 (%)

	Mar 2013	Jun 2013	Sep 2013	Dec 2013	Mar 2014	Jun 2014	Sep 2014	Dec 2014	Mar 2015	Sep 2015
Pacific	65.3	74.3	75.5	78.5	80.7	86.4	86.7	87.3	87.9	89.2
Total New Zealand	**58.8**	**67.1**	**69.1**	**73.0**	**77.6**	**83.7**	**84.9**	**86.1**	**86.9**	**89.8**

Interventions by the Government to improve access to health services

Zero Fees for Under-13s

205. From 1 July 2015, all children aged under 13 who are eligible for publicly funded health services became eligible for free general practice visits and exemption from the standard $5 prescription charge. District Health Boards are also required to ensure that children aged under 13 can access zero-fee after-hours care and prescription medicines within reasonable travel time (maximum of one hour).

206. The average number of visits for under-13s has increased almost 14 percent between July and December 2016, compared with the same period in 2014. The data shows that more Maori and Pacific children are being seen by their enrolled GP. There was a 14.9 percent increase in visits for Maori children and an 11.1 percent increase in visits for Pacific children between July and December 2016, compared with the same period in 2014.

Interventions by the Government to address health inequities

The Childhood Obesity programme

207. The programme includes the Raising Healthy Kids health target that focuses on intervening in the early stages of life to ensure positive, sustained effects on health. The target is that by December 2017, 95 percent of obese children identified in the B4 School Check (B4SC) programme will be offered a referral to a health professional for clinical assessment and family based nutrition, activity and lifestyle interventions. The target will ensure four-year-olds identified as obese while getting their B4SC will be offered a referral to manage any medical complication and any services they and their family may find helpful to support healthy eating and activity.

208. For quarter three of the target, of children identified as obese at their B4SC, 86 percent were referred to a health professional for clinical assessment and family based nutrition, activity and lifestyle interventions. Of these referrals, 93 percent of Pasifika children identified as obese were referred and 83 percent of Māori children identified as obese were referred. Data is based on all acknowledged referrals for obese children up to the end of the quarter from B4SC's occurring in the six months between 1 September 2016 and 28 February 2017.

The Rheumatic Fever Prevention Programme

209. This programme aims to prevent and treat strep throat infections, which can lead to rheumatic fever. There has been a 23 percent statistically significant decrease from the beginning of the programme in 2012 to 2016.[40] Since 2012, there has been no change in hospital admissions of rheumatic fever for Pasifika peoples. The programme has implemented a suite of initiatives including the Pasifika and Māori engagement strategies (awareness raising), free sore throat clinics; a national awareness campaign and the healthy housing initiative.

[40] http://www.health.govt.nz/about-ministry/what-we-do/strategic-direction/better-public-services/previous-bps-target-reduce-rheumatic-fever

The use of seclusion for Māori in specialist mental health services

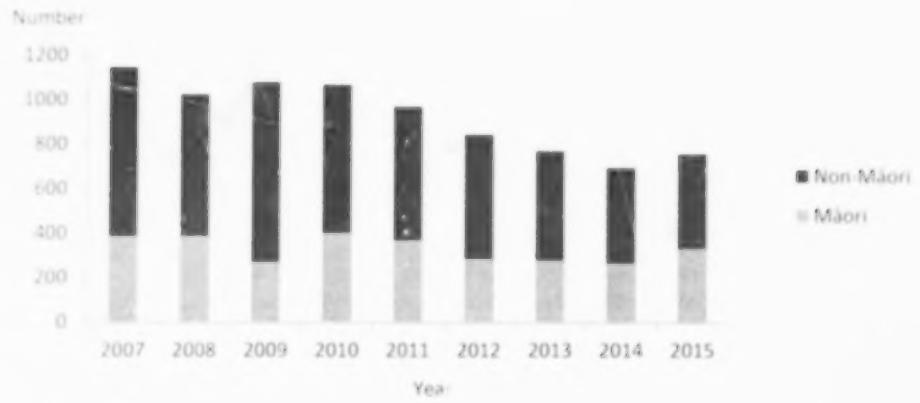
210. In 2009 the Government introduced a seclusion reduction policy, "The Health and Disability Services (Restraint Minimisation and Safe Practices)". The revised guidelines on seclusion identify best practice methods for using seclusion in mental health inpatient units. The intent is to progressively decrease and limit the use of seclusion for mental health service users.

211. Reducing (and eventually eliminating) seclusion is also a goal of the Government's service development plan "Rising to the Challenge the Mental health and Addiction Service Development Plan 2012-2017."

212. Figure 29 shows the proportion of Māori secluded in adult inpatient services (for those aged 20-64 years) between 2007 and 2015. In that time frame, the number of people secluded who identify as Māori decreased by 15 percent.[4]

Figure 29

Proportion of Māori secluded in adult inpatient services



Water

213. New Zealand's water distribution is not privatised. The Government's position is that no one owns fresh water — it is a resource that we must look after for the benefit of all New Zealanders.

214. Water utilities are the legislated responsibility of local government and must be run as not for profit operations. Rates (taxes) charged by councils help to pay for water collection and treatment facilities, pipes, and water conservation measures. In some municipal areas in New Zealand, households are individually metered, and pay for these services on a volumetric basis, in others the charges are levied based on property value and incorporated in the general rate. Businesses like water bottling companies charge for the infrastructure that purifies and delivers the water.

Measures taken to address freshwater pollution from agriculture and the impact

215. Impacts on fresh water, from all sources including agriculture, are addressed primarily through national resource management legislation and regional government policy and regulation. Point source discharges[5] have been subject to regulation beginning

[4] PRIMHD data extracted on 10 June 2016. Manual data was obtained from Capital & Coast, Hutt Valley and Lakes DHBs. PRIMHD (pronounced "primed") is a Ministry of Health single national mental health and addiction information collection of service activity and outcomes data for health consumers.

[5] Discharge of contaminants into a water body from a single fixed point, such as a pipe or drain (eg from the likes of sewerage, factory and dairy shed outfalls).

in the mid-1960's. Controls for point source and diffuse source discharges[7] have evolved through subsequent review and refinement of legislation and regulation.

216. Central government regulation in the form of the National Policy Statement for Freshwater Management (NPS-FM) came into effect in 2011 and requires regional councils to put in place limits on resource use, set targets and timelines for eliminating over-allocation and maintaining or improving water quality by 2030.

217. The NPS-FM requires regional councils to set objectives in their regional plans, based on the values that are important locally. These objectives must consider human and ecosystem health. For example, if a community values swimming in a river, it should set an objective for the water body about the maximum acceptable levels of E. coli. The NPS-FM describes acceptable levels of E. coli for water to be suitable for swimming. A council can then prescribe rules, such as stock exclusion, so the river can meet this state.

218. The NPS-FM gives councils until 2030 to set [illegible] water outcomes and have rules in place to work toward achieving those outcomes. The Government expects most if not all councils will have measures in place by 2025. In 2015:

- 78 percent (20,588,307 ha) of large surface water river catchments and 36 percent (or 139,264 ha) of lake catchments in NZ have quantified flow regimes in place that set limits;
- 8 percent (2,229,117 ha) of significant river catchments and 21 percent (92,159 ha) of lake catchments have quantified policy for land and water management that sets surface water quality limits.

K. Articles 13 and 14 — Right to education

219. The following figures provide statistical information on National Certificate of Educational Achievement (NCEA) Level 1, 2 and 3 for children from disadvantaged and marginalised households, disaggregated by gender and ethnicity. Information is also provided about support and funding measures to promote equal access to education and services.

Figure 30

Educational outcomes for children from disadvantaged and marginalized households disaggregated by gender (2015):

Gender	[illegible]	[illegible]	[illegible]	[illegible]
Male	6 048	4 867	2 231	13 126
Female	6 165	5 296	3 117	14 578

Figure 31

Educational outcomes for children from disadvantaged and marginalized households disaggregated by ethnicity (2015):

Ethnicity	[illegible]	[illegible]	[illegible]	[illegible]
Māori	2 730	1 798	802	4 330
Pasifika	2 342	1 993	1 088	5 423
Asian	453	428	287	1 168
Pākehā/European	1 196	987	827	3 010

[7] Pollutants sourced from widespread or dispersed sources (eg. from pasture runoff of animal waste, fertiliser and sediments, as well as runoff of pollutants from paved surfaces in urban areas). Also known as non-point source discharges.

220. The Government does not hold data on educational outcomes for children from disadvantaged and marginalized households disaggregated by family status.

Support and funding

221. The Government provides subsidies for all children aged 0-5 to participate in early childhood education (ECE). Parents of 3, 4 and 5 year olds are not charged fees for up to 20 hours ECE per week. In addition, the Government provides assistance with ECE fees for low and middle-income parents through a childcare subsidy.

222. Every person who is not an international student is entitled to free enrolment and free education at any State school or partnership school/kura hourua during the period beginning on the person's fifth birthday and ending on 1 January after the person's 19th birthday. This access is enshrined in legislation.

223. The Government funds school transport, such as school buses, to help students access publicly funded education, and funds schools directly to provide support for the majority of children with special education needs. The Government also provides extra support, through funding, resources and expertise, to schools working with refugees and migrants, including English for Speakers of Other Languages support.

224. The schools' funding system is designed to promote equal access. A component of schools' operational funding is calculated on the basis of pupil numbers and a socio-economic decile rating for the school, which reflects the needs of the community from which its students are drawn. This helps Government deliver extra support to communities that face the greatest barriers to educational achievement.

225. A range of funding supports and mechanisms are in place to support secondary schools to offer a diverse mix of both general education and vocational education opportunities to students in their final years. For those for whom mainstream schooling is not an option or who are at risk of not succeeding in mainstream schooling, there are a range of alternative options including alternative education programmes for all 13-15 year olds, Partnership Schools/Kura Hourua, or Teen Parent units available to pregnant learners or young parents.

226. Te Aho o Te Kura Pounamu, the New Zealand Correspondence School, provides distance education for students from early childhood to secondary level who cannot attend a school to access face-to-face education because they live in remote or inaccessible areas, because they are overseas, because they are transient, or because of illness or other special reasons.

227. Although most students pay a fee to access tertiary education, the Government subsidizes approximately 71 percent of the cost of tertiary education in order to ensure equitable access. Student support is provided to increase access to tertiary education through the New Zealand Student Loan Scheme and the New Zealand Student Allowance Scheme.

IV. Good practices

228. New Zealand engages in good faith with the recommendations of treaty bodies and Government agencies work together to progress recommendations where appropriate. In many cases the recommendations align with Government objectives and priorities as demonstrated in the various examples throughout this report.

Human Rights Commission's National Plan of Action for Human Rights

229. The previous concluding recommendations recommended New Zealand continues to work with the Human Rights Commission on the development and implementation of the Human Rights Commission's online National Plan of Action for Human Rights (http://npa.hrc.co.nz/). The current action plan sets out and tracks actions the Government is taking to protect and promote Human Rights as a result of the commitments it made through its second Universal Periodic Review before the United Nations Human Rights

Council in 2014. Seventy-eight recommendations made by the Human Rights Council relate to Covenant rights and 71 of these recommendations were accepted by the Government.

Human Rights Amendment Act 2016

290. The previous concluding recommendations recommended New Zealand ensure the position of Disability Commissioner is established on a permanent basis. In 2016 Parliament amended the Human Rights Act 1993 to make changes to the structure and functions of the Human Rights Commission. The amendment established a Commissioner responsible for disability rights. The amendment also gives the Commission greater flexibility to address emerging human rights issues by enabling the Chief Human Rights Commissioner to establish new portfolio responsibilities.

Disability Data and Evidence Working Group

291. The Committee urged New Zealand to collect data to monitor the enjoyment of Covenant rights by persons with disabilities. In New Zealand there is no single policy or operational definition of "disability" or what constitutes a disabled person. This lack of consistency has created a range of barriers to effectively measuring whether efforts to ensure their rights under the Covenant are effective. The Government has established a Disability Data and Evidence Working Group to improve data collection and information on disabled people in New Zealand.

292. The Disability Data and Evidence Working Group has been developing a Disability Data and Evidence Plan. It is now proposed that the development of the Outcomes Framework for the New Zealand Disability Strategy and the Disability Data and Evidence Plan be combined in a single programme of work to be completed by the end of 2017. This will allow New Zealand to assess the effectiveness of existing measures, and continue to make improvements to the mix of services that are available to disabled people.

Official Development Assistance

293. The Committee encouraged the Government to increase the level of its contribution of official development assistance (ODA) with a view to attaining the United Nations target of 0.7 percent of gross national income (GNI).

294. From 2002 to 2009 New Zealand increased Vote ODA progressively to achieve a higher level of ODA/GNI. Due to significant fiscal pressures arising from the Christchurch earthquakes, further planned increases to a target of NZ600 million were spread over a longer time period. Vote ODA is now set to rise to NZ660 million in 2017/18. Since 2009 the budget increases for Vote ODA have been based on performance and delivery of outcomes, rather than ODA/GNI targets.

International Human Rights Framework

295. The Committee recommended the State party adopt such measures to enable it to withdraw its reservation to article 8 of the Covenant. The position of New Zealand has not changed since the previous reporting period. Further information on New Zealand's reservation in relation to Article 8 can be found in paragraphs 183 and 184 of the second periodic report.

296. The Committee encouraged the State to ratify the Optional Protocol to the Covenant. While the Government is not considering ratification of the OP-ICESCR at this stage, this may be reviewed later.

297. The Committee also encouraged the State to consider signing and ratifying:

- The Convention for the Protection of the Rights of all Migrant Workers and Members of their Families (ICRMW). New Zealand is not considering ratifying the ICRMW at this stage.

- The International Convention for the Protection of all Persons from Enforced Disappearance (CPED). The Government will consider by the end of 2017 whether to ratify CPED subject to the established Parliamentary treaty examination process;
- The Optional Protocol to the Convention on the Rights of Persons with Disabilities (OP-CRPD). The Government has acceded to the OPCRPD therefore allowing external review of enjoyment and exercise of economic social and cultural rights;
- The Optional Protocol to the Convention on the Rights of the Child on a communications procedure. The Government began the process to establish a position on signing and ratifying the OP-CRC.

Right to sanitation

238. The last concluding observations recommended this report provide information on the impact of measures taken to ensure access to full time health-care services and improved sewerage systems among communities in rural and remote areas.

239. The New Zealand Government established a sewerage subsidy scheme in 2002 to assist small to medium communities upgrade or build sewage treatment and disposal systems, particularly in rural, disadvantaged areas. The sewerage subsidy scheme ended on 30 June 2013. Sixty-seven projects were completed, with a total subsidy value of $135.1 million. A further three projects remain to be completed, as they have had consultation/planning difficulties and have not yet started construction. In addition, a drinking-water subsidy scheme operated from 2005 to 2015. If all projects approved or currently underway are successfully completed, the Government will have provided over $96.5 million (excluding GST) to help small disadvantaged communities improve their drinking-water. Over 130,000 people will receive safer and more secure water supplies.